

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the School  
5 Choice Act.

6 Section 5. Findings and declaration of policy. The General  
7 Assembly finds and declares the following:

8 (1) There is a crisis in the education programs in this  
9 State. Many schools and their pupils are performing  
10 significantly below relevant national standards and are  
11 unable to access functions of federal and State law  
12 designed to improve their performance. Consequently, many  
13 pupils are dropping out of school before completing the  
14 ordinary course of secondary education or are leaving  
15 school without the basic skills and knowledge that will  
16 enable them to find and hold a job or otherwise become  
17 functioning, productive members of our society.

18 (2) Within this State there are many public and  
19 nonpublic schools and independent education services  
20 competently and efficiently educating or contributing to  
21 the education of children. Most pupils in those schools or  
22 receiving those services perform at or above relevant  
23 national standards, complete their secondary education,

1 and matriculate to institutions of higher education at an  
2 extremely high rate. These services and schools should be  
3 accessible to all and should enjoy a cooperative  
4 relationship with public school districts, schools, and  
5 employees of this State.

6 (3) Custodians of school age children in this State are  
7 frequently unable to enroll their children in schools that  
8 will provide them a quality education due to a lack of  
9 funds.

10 (4) Adopting a pilot school choice program for a  
11 limited number of students would enable parents to select  
12 schools or services they believe will provide a quality  
13 education for their children, empower them to influence the  
14 educational policies and procedures in the schools their  
15 children attend, and provide them with at least a portion  
16 of the funds necessary to pay for a quality education. Such  
17 a program would test a new approach to education that could  
18 be expanded to the rest of the State.

19 (5) The provisions of this Act are in the public  
20 interest, for the public benefit, and serve a secular  
21 public purpose.

22 Section 10. Definitions. As used in this Act:

23 "Base year" means the 2013-2014 school year.

24 "Custodian" means, with respect to a qualifying pupil, a  
25 parent or legal guardian who is a resident of a qualifying zip

1 code.

2 "Final year" means the 2017-2018 school year.

3 "Nonpublic school" means any State-recognized, nonpublic  
4 elementary school that elects to participate in the school  
5 choice program established under this Act and does not  
6 discriminate on the basis of race, color, or national origin  
7 under Title VI of the Civil Rights Act of 1964 and attendance  
8 at which satisfies the requirements of Section 26-1 of the  
9 School Code, except that nothing in Section 26-1 shall be  
10 construed to require a child to attend any particular nonpublic  
11 school.

12 "Qualified education expenses" means costs reasonably  
13 incurred on behalf of a qualifying pupil for the services of a  
14 participating nonpublic school in which the qualifying pupil is  
15 enrolled during the regular school year. Qualified education  
16 expenses does not include costs incurred for supplies or  
17 extra-curricular activities.

18 "Qualifying pupil" means an individual who:

19 (1) is a resident of a qualifying zip code;

20 (2) is enrolled in kindergarten through grade 7 during  
21 the 2013-2014 school year in a public school or has  
22 received a School Choice Scholarship in the previous school  
23 year; and

24 (3) during the school year for which a scholarship is  
25 sought, will be a full-time pupil enrolled in a 1st grade  
26 through 8th grade education program.

1 "Qualifying zip code" means one of the 20 zip codes that  
2 generated the greatest amount of State lottery sales the  
3 previous year from the School Choice Scholarship scratch-off  
4 game under Section 21.9 of the Illinois Lottery Law, as  
5 certified by the Department of the Lottery.

6 "School Choice Scholarship" means a written instrument  
7 issued by the State Board of Education directly to the  
8 custodian of a qualifying pupil. The instrument shall be for a  
9 sum certain, which must not exceed the foundation level of  
10 support amount specified in subsection (B) of Section 18-8.05  
11 of the School Code, to be paid within a designated period of  
12 time. The custodian may present the instrument only to a  
13 participating nonpublic school as payment for qualified  
14 education expenses incurred on behalf of the qualifying pupil.

15 Section 15. Establishment of program. There is established  
16 the School Choice Program. Under the program, after the base  
17 year and through the final year, a custodian of a qualifying  
18 pupil shall be entitled to a School Choice Scholarship for  
19 payment of qualified education expenses incurred on behalf of  
20 the qualifying pupil at any participating nonpublic school in  
21 which the qualifying pupil is enrolled. A qualifying pupil  
22 shall be entitled to enroll at and attend any participating  
23 nonpublic school of his or her choice.

24 Section 20. Notification of scholarships. The principal of

1 each public school in a qualifying zip code, as reported by the  
2 State Board of Education, shall notify custodians of qualifying  
3 pupils that scholarships under this Act are available for the  
4 next school year. Notification shall occur in January of each  
5 school year beginning with the base year through the school  
6 year before the final year. With respect to the custodians of  
7 qualifying pupils who have an individualized educational  
8 program under Article 14 of the School Code, this notification  
9 shall include information regarding the special education  
10 services, if any, provided at participating nonpublic schools.

11 Section 25. Request for scholarship. A custodian who  
12 applies in accordance with procedures established by the State  
13 Board of Education shall receive a scholarship under this Act  
14 within the scholarship issuance limits set out in this Act. The  
15 procedure shall require application for the scholarship, with  
16 documentation as to eligibility, between March 1 and May 1  
17 prior to the school year in which the scholarship is to be  
18 used.

19 Section 30. Issuance and payment of scholarship. A  
20 scholarship may only be issued to a custodian who has made  
21 proper application pursuant to Section 25 of this Act. The  
22 State Board of Education shall determine the number of  
23 scholarships that may be issued for a particular school year  
24 based on the amount of money in the School Choice Fund to fund

1 full scholarships that school year. The State Board shall adopt  
2 rules for a lottery drawing if there are more applications than  
3 the number of scholarships for a given school year. The  
4 custodian shall present the scholarship to a participating  
5 nonpublic school of his or her choice as payment for qualified  
6 education expenses. Upon presentment, the State Board of  
7 Education shall honor the scholarship and, as issuer of the  
8 instrument, pay the participating nonpublic school in  
9 accordance with procedures established by the State Board of  
10 Education. The procedures shall require all of the following:

11 (1) that the applying custodian be notified of the  
12 scholarship award by July 1 of the school year in which the  
13 scholarship is to be used;

14 (2) that the scholarship instrument be issued to the  
15 custodian no later than August 15 of the school year in  
16 which the scholarship is to be used;

17 (3) that the custodian present the scholarship  
18 instrument to the participating school no later than  
19 September 1 of the school year in which the scholarship is  
20 to be used;

21 (4) that the participating school present the  
22 scholarship instrument, with proof of service to the  
23 custodian of the qualifying pupil, to the State Board of  
24 Education no later than September 31 of the school year in  
25 which the scholarship is to be used;

26 (5) that the State Board of Education shall honor the

1 scholarship instrument and as issuer pay the participating  
2 school no later than November 31 of the school year in  
3 which the scholarship is to be used;

4 (6) that participating schools must not be required to  
5 accept scholarships as full payment for services but  
6 neither shall they charge scholarship pupils tuition or any  
7 other educational expenses at a higher rate than other  
8 pupils; and

9 (7) that if a student attending a nonpublic school  
10 under the School Choice Program is expelled from the  
11 nonpublic school before the State Board of Education has  
12 honored the scholarship of the school, then the State Board  
13 of Education shall pay the corresponding prorated portion  
14 of the scholarship amount to the nonpublic school; and that  
15 if the State Board of Education has paid the scholarship  
16 amount to the nonpublic school and the pupil is expelled,  
17 then the nonpublic school shall refund the corresponding  
18 prorated portion of the scholarship to the State Board of  
19 Education.

20 No scholarships shall be issued for a school year after the  
21 final year.

22 Section 35. Amount of scholarship. A School Choice  
23 Scholarship for qualified education expenses incurred through  
24 participating schools during any school year after the base  
25 year shall be for the lesser of (i) the foundation level of

1 support amount specified in subsection (B) of Section 18-8.05  
2 of the School Code or (ii) the actual qualified education  
3 expenses related to the qualifying pupil's enrollment.

4 Section 40. Renewal of scholarship. School Choice  
5 Scholarships shall be renewable every year through grade 8 so  
6 long as the qualifying pupil and custodian continue to remain  
7 eligible pursuant to Section 10 of this Act.

8 Section 50. Funding. Funding for the School Choice Program  
9 shall come from appropriations made to the State Board of  
10 Education from the School Choice Fund.

11 Section 55. Not base income. The amount of any scholarship  
12 redeemed under this Act shall not be considered base income  
13 under subsection (a) of Section 203 of the Illinois Income Tax  
14 Act and shall not be taxable for Illinois income tax purposes.

15 Section 60. Report and expansion. On or before December 31,  
16 2016, the State Board of Education shall submit a report to the  
17 General Assembly reviewing the program operating under this  
18 Act. This report shall include, but not be limited to, the  
19 number of qualifying pupils receiving a School Choice  
20 Scholarship, the names of the schools from which and to which  
21 pupils transferred, the financial ramifications of the  
22 program, and the results of pupil assessments. In its report,



1 the State Board of Education shall assess whether the program  
2 has been financially and academically beneficial and shall make  
3 a recommendation on whether the program should be extended or  
4 expanded to other areas of this State.

5 Section 65. Penalties. It shall be a Class 3 felony to use  
6 or attempt to use a scholarship under this Act for any purpose  
7 other than those permitted by this Act. It shall also be a  
8 Class 3 felony for any person, with intent to defraud, to  
9 knowingly forge, alter, or misrepresent information on a  
10 scholarship application or on any documents submitted in  
11 application for a scholarship, to deliver any such document  
12 knowing it to have been thus forged, altered, or based on  
13 misrepresentation, or to possess, with intent to issue or  
14 deliver, any such document knowing it to have been thus forged,  
15 altered, or based on misrepresentation.

16 Section 70. Rules. The State Board of Education shall adopt  
17 rules to implement this Act. The creation of the School Choice  
18 Program does not expand the regulatory authority of this State,  
19 its officers, or any school district to impose any additional  
20 regulation of nonpublic schools beyond those reasonably  
21 necessary to enforce the requirements of the program.

22 Section 500. Expiration. This Act is repealed on January 1,  
23 2017.

1           Section 895. The Illinois Lottery Law is amended by  
2 changing Sections 2 and 20 and by adding Sections 7.4a and 21.9  
3 as follows:

4           (20 ILCS 1605/2) (from Ch. 120, par. 1152)

5           Sec. 2. This Act is enacted to implement and establish  
6 within the State a lottery to be conducted by the State through  
7 the Department. The entire net proceeds of the Lottery are to  
8 be used for the support of the State's Common School Fund,  
9 except as provided in subsection (o) of Section 9.1 and  
10 Sections 21.2, 21.5, 21.6, 21.7, ~~and 21.8,~~ and 21.9. The  
11 General Assembly finds that it is in the public interest for  
12 the Department to conduct the functions of the Lottery with the  
13 assistance of a private manager under a management agreement  
14 overseen by the Department. The Department shall be accountable  
15 to the General Assembly and the people of the State through a  
16 comprehensive system of regulation, audits, reports, and  
17 enduring operational oversight. The Department's ongoing  
18 conduct of the Lottery through a management agreement with a  
19 private manager shall act to promote and ensure the integrity,  
20 security, honesty, and fairness of the Lottery's operation and  
21 administration. It is the intent of the General Assembly that  
22 the Department shall conduct the Lottery with the assistance of  
23 a private manager under a management agreement at all times in  
24 a manner consistent with 18 U.S.C. 1307(a)(1), 1307(b)(1),

1 1953(b)(4).

2 (Source: P.A. 95-331, eff. 8-21-07; 95-673, eff. 10-11-07;  
3 95-674, eff. 10-11-07; 95-876, eff. 8-21-08; 96-34, eff.  
4 7-13-09.)

5 (20 ILCS 1605/7.4a new)

6 Sec. 7.4a. Certification under School Choice Act. Before  
7 December 15 of each year, the Department shall certify to the  
8 State Board of Education the 20 zip codes that generated the  
9 greatest amount of State lottery sales the previous year from  
10 the School Choice Scholarship scratch-off game under Section  
11 21.9 of this Law for the purposes of the School Choice Act.

12 (20 ILCS 1605/20) (from Ch. 120, par. 1170)

13 Sec. 20. State Lottery Fund.

14 (a) There is created in the State Treasury a special fund  
15 to be known as the "State Lottery Fund". Such fund shall  
16 consist of all revenues received from (1) the sale of lottery  
17 tickets or shares, (net of commissions, fees representing those  
18 expenses that are directly proportionate to the sale of tickets  
19 or shares at the agent location, and prizes of less than \$600  
20 which have been validly paid at the agent level), (2)  
21 application fees, and (3) all other sources including moneys  
22 credited or transferred thereto from any other fund or source  
23 pursuant to law. Interest earnings of the State Lottery Fund  
24 shall be credited to the Common School Fund.

1 (b) The receipt and distribution of moneys under Section  
2 21.5 of this Act shall be in accordance with Section 21.5.

3 (c) The receipt and distribution of moneys under Section  
4 21.6 of this Act shall be in accordance with Section 21.6.

5 (d) The receipt and distribution of moneys under Section  
6 21.7 of this Act shall be in accordance with Section 21.7.

7 (e) The receipt and distribution of moneys under Section  
8 21.8 of this Act shall be in accordance with Section 21.8.

9 (f) The receipt and distribution of moneys under Section  
10 21.9 of this Act shall be in accordance with Section 21.9.

11 (Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05;  
12 95-331, eff. 8-21-07; 95-673, eff. 10-11-07; 95-674, eff.  
13 10-11-07; 95-876, eff. 8-21-08.)

14 (20 ILCS 1605/21.9 new)

15 Sec. 21.9. Scratch-off for School Choice Scholarships.

16 (a) The Department shall offer a special instant  
17 scratch-off game for the funding of School Choice Scholarships  
18 under the School Choice Act. The game shall commence as soon as  
19 is reasonably practical, at the discretion of the  
20 Superintendent. The operation of the game shall be governed by  
21 this Act and any rules adopted by the Department. If any  
22 provision of this Section is inconsistent with any other  
23 provision of this Act, then this Section governs.

24 (b) For purposes of this subsection (b), "net revenue"  
25 means the total amount for which tickets have been sold less

1 the sum of the amount paid out in prizes and the actual  
2 administrative expenses of the Department solely related to the  
3 scratch-off game under this Section.

4 The School Choice Fund is created as a special fund in the  
5 State treasury. The net revenue from the School Choice  
6 Scholarship scratch-off game must be deposited into the Fund  
7 for appropriation by the General Assembly solely to the State  
8 Board of Education for the issuance of School Choice  
9 Scholarships under the School Choice Act.

10 Moneys received for the purposes of this Section,  
11 including, without limitation, net revenue from the  
12 scratch-off game and from gifts, grants, and awards from any  
13 public or private entity, must be deposited into the Fund. Any  
14 interest earned on moneys in the Fund must be deposited into  
15 the Fund.

16 (c) During the time that tickets are sold for the School  
17 Choice Scholarship scratch-off game, the Department may not  
18 unreasonably diminish the efforts devoted to marketing any  
19 other instant scratch-off lottery game.

20 (d) The Department may adopt any rules necessary to  
21 implement and administer the provisions of this Section.

22 Section 897. The State Finance Act is amended by adding  
23 Section 5.826 as follows:

24 (30 ILCS 105/5.826 new)

1           Sec. 5.826. The School Choice Fund.

2           Section 900. The Illinois Income Tax Act is amended by  
3 changing Section 203 as follows:

4           (35 ILCS 5/203) (from Ch. 120, par. 2-203)

5           Sec. 203. Base income defined.

6           (a) Individuals.

7           (1) In general. In the case of an individual, base  
8 income means an amount equal to the taxpayer's adjusted  
9 gross income for the taxable year as modified by paragraph  
10 (2).

11           (2) Modifications. The adjusted gross income referred  
12 to in paragraph (1) shall be modified by adding thereto the  
13 sum of the following amounts:

14           (A) An amount equal to all amounts paid or accrued  
15 to the taxpayer as interest or dividends during the  
16 taxable year to the extent excluded from gross income  
17 in the computation of adjusted gross income, except  
18 stock dividends of qualified public utilities  
19 described in Section 305(e) of the Internal Revenue  
20 Code;

21           (B) An amount equal to the amount of tax imposed by  
22 this Act to the extent deducted from gross income in  
23 the computation of adjusted gross income for the  
24 taxable year;

1 (C) An amount equal to the amount received during  
2 the taxable year as a recovery or refund of real  
3 property taxes paid with respect to the taxpayer's  
4 principal residence under the Revenue Act of 1939 and  
5 for which a deduction was previously taken under  
6 subparagraph (L) of this paragraph (2) prior to July 1,  
7 1991, the retrospective application date of Article 4  
8 of Public Act 87-17. In the case of multi-unit or  
9 multi-use structures and farm dwellings, the taxes on  
10 the taxpayer's principal residence shall be that  
11 portion of the total taxes for the entire property  
12 which is attributable to such principal residence;

13 (D) An amount equal to the amount of the capital  
14 gain deduction allowable under the Internal Revenue  
15 Code, to the extent deducted from gross income in the  
16 computation of adjusted gross income;

17 (D-5) An amount, to the extent not included in  
18 adjusted gross income, equal to the amount of money  
19 withdrawn by the taxpayer in the taxable year from a  
20 medical care savings account and the interest earned on  
21 the account in the taxable year of a withdrawal  
22 pursuant to subsection (b) of Section 20 of the Medical  
23 Care Savings Account Act or subsection (b) of Section  
24 20 of the Medical Care Savings Account Act of 2000;

25 (D-10) For taxable years ending after December 31,  
26 1997, an amount equal to any eligible remediation costs

1           that the individual deducted in computing adjusted  
2           gross income and for which the individual claims a  
3           credit under subsection (l) of Section 201;

4           (D-15) For taxable years 2001 and thereafter, an  
5           amount equal to the bonus depreciation deduction taken  
6           on the taxpayer's federal income tax return for the  
7           taxable year under subsection (k) of Section 168 of the  
8           Internal Revenue Code;

9           (D-16) If the taxpayer sells, transfers, abandons,  
10          or otherwise disposes of property for which the  
11          taxpayer was required in any taxable year to make an  
12          addition modification under subparagraph (D-15), then  
13          an amount equal to the aggregate amount of the  
14          deductions taken in all taxable years under  
15          subparagraph (Z) with respect to that property.

16          If the taxpayer continues to own property through  
17          the last day of the last tax year for which the  
18          taxpayer may claim a depreciation deduction for  
19          federal income tax purposes and for which the taxpayer  
20          was allowed in any taxable year to make a subtraction  
21          modification under subparagraph (Z), then an amount  
22          equal to that subtraction modification.

23          The taxpayer is required to make the addition  
24          modification under this subparagraph only once with  
25          respect to any one piece of property;

26          (D-17) An amount equal to the amount otherwise



1 allowed as a deduction in computing base income for  
2 interest paid, accrued, or incurred, directly or  
3 indirectly, (i) for taxable years ending on or after  
4 December 31, 2004, to a foreign person who would be a  
5 member of the same unitary business group but for the  
6 fact that foreign person's business activity outside  
7 the United States is 80% or more of the foreign  
8 person's total business activity and (ii) for taxable  
9 years ending on or after December 31, 2008, to a person  
10 who would be a member of the same unitary business  
11 group but for the fact that the person is prohibited  
12 under Section 1501(a)(27) from being included in the  
13 unitary business group because he or she is ordinarily  
14 required to apportion business income under different  
15 subsections of Section 304. The addition modification  
16 required by this subparagraph shall be reduced to the  
17 extent that dividends were included in base income of  
18 the unitary group for the same taxable year and  
19 received by the taxpayer or by a member of the  
20 taxpayer's unitary business group (including amounts  
21 included in gross income under Sections 951 through 964  
22 of the Internal Revenue Code and amounts included in  
23 gross income under Section 78 of the Internal Revenue  
24 Code) with respect to the stock of the same person to  
25 whom the interest was paid, accrued, or incurred.

26 This paragraph shall not apply to the following:

1 (i) an item of interest paid, accrued, or  
2 incurred, directly or indirectly, to a person who  
3 is subject in a foreign country or state, other  
4 than a state which requires mandatory unitary  
5 reporting, to a tax on or measured by net income  
6 with respect to such interest; or

7 (ii) an item of interest paid, accrued, or  
8 incurred, directly or indirectly, to a person if  
9 the taxpayer can establish, based on a  
10 preponderance of the evidence, both of the  
11 following:

12 (a) the person, during the same taxable  
13 year, paid, accrued, or incurred, the interest  
14 to a person that is not a related member, and

15 (b) the transaction giving rise to the  
16 interest expense between the taxpayer and the  
17 person did not have as a principal purpose the  
18 avoidance of Illinois income tax, and is paid  
19 pursuant to a contract or agreement that  
20 reflects an arm's-length interest rate and  
21 terms; or

22 (iii) the taxpayer can establish, based on  
23 clear and convincing evidence, that the interest  
24 paid, accrued, or incurred relates to a contract or  
25 agreement entered into at arm's-length rates and  
26 terms and the principal purpose for the payment is

1 not federal or Illinois tax avoidance; or  
2 (iv) an item of interest paid, accrued, or  
3 incurred, directly or indirectly, to a person if  
4 the taxpayer establishes by clear and convincing  
5 evidence that the adjustments are unreasonable; or  
6 if the taxpayer and the Director agree in writing  
7 to the application or use of an alternative method  
8 of apportionment under Section 304(f).

9 Nothing in this subsection shall preclude the  
10 Director from making any other adjustment  
11 otherwise allowed under Section 404 of this Act for  
12 any tax year beginning after the effective date of  
13 this amendment provided such adjustment is made  
14 pursuant to regulation adopted by the Department  
15 and such regulations provide methods and standards  
16 by which the Department will utilize its authority  
17 under Section 404 of this Act;

18 (D-18) An amount equal to the amount of intangible  
19 expenses and costs otherwise allowed as a deduction in  
20 computing base income, and that were paid, accrued, or  
21 incurred, directly or indirectly, (i) for taxable  
22 years ending on or after December 31, 2004, to a  
23 foreign person who would be a member of the same  
24 unitary business group but for the fact that the  
25 foreign person's business activity outside the United  
26 States is 80% or more of that person's total business

1 activity and (ii) for taxable years ending on or after  
2 December 31, 2008, to a person who would be a member of  
3 the same unitary business group but for the fact that  
4 the person is prohibited under Section 1501(a)(27)  
5 from being included in the unitary business group  
6 because he or she is ordinarily required to apportion  
7 business income under different subsections of Section  
8 304. The addition modification required by this  
9 subparagraph shall be reduced to the extent that  
10 dividends were included in base income of the unitary  
11 group for the same taxable year and received by the  
12 taxpayer or by a member of the taxpayer's unitary  
13 business group (including amounts included in gross  
14 income under Sections 951 through 964 of the Internal  
15 Revenue Code and amounts included in gross income under  
16 Section 78 of the Internal Revenue Code) with respect  
17 to the stock of the same person to whom the intangible  
18 expenses and costs were directly or indirectly paid,  
19 incurred, or accrued. The preceding sentence does not  
20 apply to the extent that the same dividends caused a  
21 reduction to the addition modification required under  
22 Section 203(a)(2)(D-17) of this Act. As used in this  
23 subparagraph, the term "intangible expenses and costs"  
24 includes (1) expenses, losses, and costs for, or  
25 related to, the direct or indirect acquisition, use,  
26 maintenance or management, ownership, sale, exchange,

1 or any other disposition of intangible property; (2)  
2 losses incurred, directly or indirectly, from  
3 factoring transactions or discounting transactions;  
4 (3) royalty, patent, technical, and copyright fees;  
5 (4) licensing fees; and (5) other similar expenses and  
6 costs. For purposes of this subparagraph, "intangible  
7 property" includes patents, patent applications, trade  
8 names, trademarks, service marks, copyrights, mask  
9 works, trade secrets, and similar types of intangible  
10 assets.

11 This paragraph shall not apply to the following:

12 (i) any item of intangible expenses or costs  
13 paid, accrued, or incurred, directly or  
14 indirectly, from a transaction with a person who is  
15 subject in a foreign country or state, other than a  
16 state which requires mandatory unitary reporting,  
17 to a tax on or measured by net income with respect  
18 to such item; or

19 (ii) any item of intangible expense or cost  
20 paid, accrued, or incurred, directly or  
21 indirectly, if the taxpayer can establish, based  
22 on a preponderance of the evidence, both of the  
23 following:

24 (a) the person during the same taxable  
25 year paid, accrued, or incurred, the  
26 intangible expense or cost to a person that is

1 not a related member, and

2 (b) the transaction giving rise to the  
3 intangible expense or cost between the  
4 taxpayer and the person did not have as a  
5 principal purpose the avoidance of Illinois  
6 income tax, and is paid pursuant to a contract  
7 or agreement that reflects arm's-length terms;  
8 or

9 (iii) any item of intangible expense or cost  
10 paid, accrued, or incurred, directly or  
11 indirectly, from a transaction with a person if the  
12 taxpayer establishes by clear and convincing  
13 evidence, that the adjustments are unreasonable;  
14 or if the taxpayer and the Director agree in  
15 writing to the application or use of an alternative  
16 method of apportionment under Section 304(f);

17 Nothing in this subsection shall preclude the  
18 Director from making any other adjustment  
19 otherwise allowed under Section 404 of this Act for  
20 any tax year beginning after the effective date of  
21 this amendment provided such adjustment is made  
22 pursuant to regulation adopted by the Department  
23 and such regulations provide methods and standards  
24 by which the Department will utilize its authority  
25 under Section 404 of this Act;

26 (D-19) For taxable years ending on or after

1 December 31, 2008, an amount equal to the amount of  
2 insurance premium expenses and costs otherwise allowed  
3 as a deduction in computing base income, and that were  
4 paid, accrued, or incurred, directly or indirectly, to  
5 a person who would be a member of the same unitary  
6 business group but for the fact that the person is  
7 prohibited under Section 1501(a)(27) from being  
8 included in the unitary business group because he or  
9 she is ordinarily required to apportion business  
10 income under different subsections of Section 304. The  
11 addition modification required by this subparagraph  
12 shall be reduced to the extent that dividends were  
13 included in base income of the unitary group for the  
14 same taxable year and received by the taxpayer or by a  
15 member of the taxpayer's unitary business group  
16 (including amounts included in gross income under  
17 Sections 951 through 964 of the Internal Revenue Code  
18 and amounts included in gross income under Section 78  
19 of the Internal Revenue Code) with respect to the stock  
20 of the same person to whom the premiums and costs were  
21 directly or indirectly paid, incurred, or accrued. The  
22 preceding sentence does not apply to the extent that  
23 the same dividends caused a reduction to the addition  
24 modification required under Section 203(a)(2)(D-17) or  
25 Section 203(a)(2)(D-18) of this Act.

26 (D-20) For taxable years beginning on or after

1 January 1, 2002 and ending on or before December 31,  
2 2006, in the case of a distribution from a qualified  
3 tuition program under Section 529 of the Internal  
4 Revenue Code, other than (i) a distribution from a  
5 College Savings Pool created under Section 16.5 of the  
6 State Treasurer Act or (ii) a distribution from the  
7 Illinois Prepaid Tuition Trust Fund, an amount equal to  
8 the amount excluded from gross income under Section  
9 529(c)(3)(B). For taxable years beginning on or after  
10 January 1, 2007, in the case of a distribution from a  
11 qualified tuition program under Section 529 of the  
12 Internal Revenue Code, other than (i) a distribution  
13 from a College Savings Pool created under Section 16.5  
14 of the State Treasurer Act, (ii) a distribution from  
15 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
16 distribution from a qualified tuition program under  
17 Section 529 of the Internal Revenue Code that (I)  
18 adopts and determines that its offering materials  
19 comply with the College Savings Plans Network's  
20 disclosure principles and (II) has made reasonable  
21 efforts to inform in-state residents of the existence  
22 of in-state qualified tuition programs by informing  
23 Illinois residents directly and, where applicable, to  
24 inform financial intermediaries distributing the  
25 program to inform in-state residents of the existence  
26 of in-state qualified tuition programs at least



1           annually, an amount equal to the amount excluded from  
2           gross income under Section 529(c)(3)(B).

3           For the purposes of this subparagraph (D-20), a  
4           qualified tuition program has made reasonable efforts  
5           if it makes disclosures (which may use the term  
6           "in-state program" or "in-state plan" and need not  
7           specifically refer to Illinois or its qualified  
8           programs by name) (i) directly to prospective  
9           participants in its offering materials or makes a  
10          public disclosure, such as a website posting; and (ii)  
11          where applicable, to intermediaries selling the  
12          out-of-state program in the same manner that the  
13          out-of-state program distributes its offering  
14          materials;

15          (D-21) For taxable years beginning on or after  
16          January 1, 2007, in the case of transfer of moneys from  
17          a qualified tuition program under Section 529 of the  
18          Internal Revenue Code that is administered by the State  
19          to an out-of-state program, an amount equal to the  
20          amount of moneys previously deducted from base income  
21          under subsection (a)(2)(Y) of this Section;

22          (D-22) For taxable years beginning on or after  
23          January 1, 2009, in the case of a nonqualified  
24          withdrawal or refund of moneys from a qualified tuition  
25          program under Section 529 of the Internal Revenue Code  
26          administered by the State that is not used for

1 qualified expenses at an eligible education  
2 institution, an amount equal to the contribution  
3 component of the nonqualified withdrawal or refund  
4 that was previously deducted from base income under  
5 subsection (a)(2)(y) of this Section, provided that  
6 the withdrawal or refund did not result from the  
7 beneficiary's death or disability;

8 (D-23) An amount equal to the credit allowable to  
9 the taxpayer under Section 218(a) of this Act,  
10 determined without regard to Section 218(c) of this  
11 Act;

12 and by deducting from the total so obtained the sum of the  
13 following amounts:

14 (E) For taxable years ending before December 31,  
15 2001, any amount included in such total in respect of  
16 any compensation (including but not limited to any  
17 compensation paid or accrued to a serviceman while a  
18 prisoner of war or missing in action) paid to a  
19 resident by reason of being on active duty in the Armed  
20 Forces of the United States and in respect of any  
21 compensation paid or accrued to a resident who as a  
22 governmental employee was a prisoner of war or missing  
23 in action, and in respect of any compensation paid to a  
24 resident in 1971 or thereafter for annual training  
25 performed pursuant to Sections 502 and 503, Title 32,  
26 United States Code as a member of the Illinois National

1 Guard or, beginning with taxable years ending on or  
2 after December 31, 2007, the National Guard of any  
3 other state. For taxable years ending on or after  
4 December 31, 2001, any amount included in such total in  
5 respect of any compensation (including but not limited  
6 to any compensation paid or accrued to a serviceman  
7 while a prisoner of war or missing in action) paid to a  
8 resident by reason of being a member of any component  
9 of the Armed Forces of the United States and in respect  
10 of any compensation paid or accrued to a resident who  
11 as a governmental employee was a prisoner of war or  
12 missing in action, and in respect of any compensation  
13 paid to a resident in 2001 or thereafter by reason of  
14 being a member of the Illinois National Guard or,  
15 beginning with taxable years ending on or after  
16 December 31, 2007, the National Guard of any other  
17 state. The provisions of this subparagraph (E) are  
18 exempt from the provisions of Section 250;

19 (F) An amount equal to all amounts included in such  
20 total pursuant to the provisions of Sections 402(a),  
21 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
22 Internal Revenue Code, or included in such total as  
23 distributions under the provisions of any retirement  
24 or disability plan for employees of any governmental  
25 agency or unit, or retirement payments to retired  
26 partners, which payments are excluded in computing net

1 earnings from self employment by Section 1402 of the  
2 Internal Revenue Code and regulations adopted pursuant  
3 thereto;

4 (G) The valuation limitation amount;

5 (H) An amount equal to the amount of any tax  
6 imposed by this Act which was refunded to the taxpayer  
7 and included in such total for the taxable year;

8 (I) An amount equal to all amounts included in such  
9 total pursuant to the provisions of Section 111 of the  
10 Internal Revenue Code as a recovery of items previously  
11 deducted from adjusted gross income in the computation  
12 of taxable income;

13 (J) An amount equal to those dividends included in  
14 such total which were paid by a corporation which  
15 conducts business operations in a River Edge  
16 Redevelopment Zone or zones created under the River  
17 Edge Redevelopment Zone Act, and conducts  
18 substantially all of its operations in a River Edge  
19 Redevelopment Zone or zones. This subparagraph (J) is  
20 exempt from the provisions of Section 250;

21 (K) An amount equal to those dividends included in  
22 such total that were paid by a corporation that  
23 conducts business operations in a federally designated  
24 Foreign Trade Zone or Sub-Zone and that is designated a  
25 High Impact Business located in Illinois; provided  
26 that dividends eligible for the deduction provided in

1           subparagraph (J) of paragraph (2) of this subsection  
2           shall not be eligible for the deduction provided under  
3           this subparagraph (K);

4           (L) For taxable years ending after December 31,  
5           1983, an amount equal to all social security benefits  
6           and railroad retirement benefits included in such  
7           total pursuant to Sections 72(r) and 86 of the Internal  
8           Revenue Code;

9           (M) With the exception of any amounts subtracted  
10          under subparagraph (N), an amount equal to the sum of  
11          all amounts disallowed as deductions by (i) Sections  
12          171(a) (2), and 265(2) of the Internal Revenue Code,  
13          and all amounts of expenses allocable to interest and  
14          disallowed as deductions by Section 265(1) of the  
15          Internal Revenue Code; and (ii) for taxable years  
16          ending on or after August 13, 1999, Sections 171(a) (2),  
17          265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
18          Code, plus, for taxable years ending on or after  
19          December 31, 2011, Section 45G(e) (3) of the Internal  
20          Revenue Code and, for taxable years ending on or after  
21          December 31, 2008, any amount included in gross income  
22          under Section 87 of the Internal Revenue Code; the  
23          provisions of this subparagraph are exempt from the  
24          provisions of Section 250;

25          (N) An amount equal to all amounts included in such  
26          total which are exempt from taxation by this State

1           either by reason of its statutes or Constitution or by  
2           reason of the Constitution, treaties or statutes of the  
3           United States; provided that, in the case of any  
4           statute of this State that exempts income derived from  
5           bonds or other obligations from the tax imposed under  
6           this Act, the amount exempted shall be the interest net  
7           of bond premium amortization;

8           (O) An amount equal to any contribution made to a  
9           job training project established pursuant to the Tax  
10          Increment Allocation Redevelopment Act;

11          (P) An amount equal to the amount of the deduction  
12          used to compute the federal income tax credit for  
13          restoration of substantial amounts held under claim of  
14          right for the taxable year pursuant to Section 1341 of  
15          the Internal Revenue Code or of any itemized deduction  
16          taken from adjusted gross income in the computation of  
17          taxable income for restoration of substantial amounts  
18          held under claim of right for the taxable year;

19          (Q) An amount equal to any amounts included in such  
20          total, received by the taxpayer as an acceleration in  
21          the payment of life, endowment or annuity benefits in  
22          advance of the time they would otherwise be payable as  
23          an indemnity for a terminal illness;

24          (R) An amount equal to the amount of any federal or  
25          State bonus paid to veterans of the Persian Gulf War;

26          (S) An amount, to the extent included in adjusted

1 gross income, equal to the amount of a contribution  
2 made in the taxable year on behalf of the taxpayer to a  
3 medical care savings account established under the  
4 Medical Care Savings Account Act or the Medical Care  
5 Savings Account Act of 2000 to the extent the  
6 contribution is accepted by the account administrator  
7 as provided in that Act;

8 (T) An amount, to the extent included in adjusted  
9 gross income, equal to the amount of interest earned in  
10 the taxable year on a medical care savings account  
11 established under the Medical Care Savings Account Act  
12 or the Medical Care Savings Account Act of 2000 on  
13 behalf of the taxpayer, other than interest added  
14 pursuant to item (D-5) of this paragraph (2);

15 (U) For one taxable year beginning on or after  
16 January 1, 1994, an amount equal to the total amount of  
17 tax imposed and paid under subsections (a) and (b) of  
18 Section 201 of this Act on grant amounts received by  
19 the taxpayer under the Nursing Home Grant Assistance  
20 Act during the taxpayer's taxable years 1992 and 1993;

21 (V) Beginning with tax years ending on or after  
22 December 31, 1995 and ending with tax years ending on  
23 or before December 31, 2004, an amount equal to the  
24 amount paid by a taxpayer who is a self-employed  
25 taxpayer, a partner of a partnership, or a shareholder  
26 in a Subchapter S corporation for health insurance or

1 long-term care insurance for that taxpayer or that  
2 taxpayer's spouse or dependents, to the extent that the  
3 amount paid for that health insurance or long-term care  
4 insurance may be deducted under Section 213 of the  
5 Internal Revenue Code, has not been deducted on the  
6 federal income tax return of the taxpayer, and does not  
7 exceed the taxable income attributable to that  
8 taxpayer's income, self-employment income, or  
9 Subchapter S corporation income; except that no  
10 deduction shall be allowed under this item (V) if the  
11 taxpayer is eligible to participate in any health  
12 insurance or long-term care insurance plan of an  
13 employer of the taxpayer or the taxpayer's spouse. The  
14 amount of the health insurance and long-term care  
15 insurance subtracted under this item (V) shall be  
16 determined by multiplying total health insurance and  
17 long-term care insurance premiums paid by the taxpayer  
18 times a number that represents the fractional  
19 percentage of eligible medical expenses under Section  
20 213 of the Internal Revenue Code of 1986 not actually  
21 deducted on the taxpayer's federal income tax return;

22 (W) For taxable years beginning on or after January  
23 1, 1998, all amounts included in the taxpayer's federal  
24 gross income in the taxable year from amounts converted  
25 from a regular IRA to a Roth IRA. This paragraph is  
26 exempt from the provisions of Section 250;



1           (X) For taxable year 1999 and thereafter, an amount  
2           equal to the amount of any (i) distributions, to the  
3           extent includible in gross income for federal income  
4           tax purposes, made to the taxpayer because of his or  
5           her status as a victim of persecution for racial or  
6           religious reasons by Nazi Germany or any other Axis  
7           regime or as an heir of the victim and (ii) items of  
8           income, to the extent includible in gross income for  
9           federal income tax purposes, attributable to, derived  
10          from or in any way related to assets stolen from,  
11          hidden from, or otherwise lost to a victim of  
12          persecution for racial or religious reasons by Nazi  
13          Germany or any other Axis regime immediately prior to,  
14          during, and immediately after World War II, including,  
15          but not limited to, interest on the proceeds receivable  
16          as insurance under policies issued to a victim of  
17          persecution for racial or religious reasons by Nazi  
18          Germany or any other Axis regime by European insurance  
19          companies immediately prior to and during World War II;  
20          provided, however, this subtraction from federal  
21          adjusted gross income does not apply to assets acquired  
22          with such assets or with the proceeds from the sale of  
23          such assets; provided, further, this paragraph shall  
24          only apply to a taxpayer who was the first recipient of  
25          such assets after their recovery and who is a victim of  
26          persecution for racial or religious reasons by Nazi

1 Germany or any other Axis regime or as an heir of the  
2 victim. The amount of and the eligibility for any  
3 public assistance, benefit, or similar entitlement is  
4 not affected by the inclusion of items (i) and (ii) of  
5 this paragraph in gross income for federal income tax  
6 purposes. This paragraph is exempt from the provisions  
7 of Section 250;

8 (Y) For taxable years beginning on or after January  
9 1, 2002 and ending on or before December 31, 2004,  
10 moneys contributed in the taxable year to a College  
11 Savings Pool account under Section 16.5 of the State  
12 Treasurer Act, except that amounts excluded from gross  
13 income under Section 529(c)(3)(C)(i) of the Internal  
14 Revenue Code shall not be considered moneys  
15 contributed under this subparagraph (Y). For taxable  
16 years beginning on or after January 1, 2005, a maximum  
17 of \$10,000 contributed in the taxable year to (i) a  
18 College Savings Pool account under Section 16.5 of the  
19 State Treasurer Act or (ii) the Illinois Prepaid  
20 Tuition Trust Fund, except that amounts excluded from  
21 gross income under Section 529(c)(3)(C)(i) of the  
22 Internal Revenue Code shall not be considered moneys  
23 contributed under this subparagraph (Y). For purposes  
24 of this subparagraph, contributions made by an  
25 employer on behalf of an employee, or matching  
26 contributions made by an employee, shall be treated as

1 made by the employee. This subparagraph (Y) is exempt  
2 from the provisions of Section 250;

3 (Z) For taxable years 2001 and thereafter, for the  
4 taxable year in which the bonus depreciation deduction  
5 is taken on the taxpayer's federal income tax return  
6 under subsection (k) of Section 168 of the Internal  
7 Revenue Code and for each applicable taxable year  
8 thereafter, an amount equal to "x", where:

9 (1) "y" equals the amount of the depreciation  
10 deduction taken for the taxable year on the  
11 taxpayer's federal income tax return on property  
12 for which the bonus depreciation deduction was  
13 taken in any year under subsection (k) of Section  
14 168 of the Internal Revenue Code, but not including  
15 the bonus depreciation deduction;

16 (2) for taxable years ending on or before  
17 December 31, 2005, "x" equals "y" multiplied by 30  
18 and then divided by 70 (or "y" multiplied by  
19 0.429); and

20 (3) for taxable years ending after December  
21 31, 2005:

22 (i) for property on which a bonus  
23 depreciation deduction of 30% of the adjusted  
24 basis was taken, "x" equals "y" multiplied by  
25 30 and then divided by 70 (or "y" multiplied by  
26 0.429); and

1 (ii) for property on which a bonus  
2 depreciation deduction of 50% of the adjusted  
3 basis was taken, "x" equals "y" multiplied by  
4 1.0.

5 The aggregate amount deducted under this  
6 subparagraph in all taxable years for any one piece of  
7 property may not exceed the amount of the bonus  
8 depreciation deduction taken on that property on the  
9 taxpayer's federal income tax return under subsection  
10 (k) of Section 168 of the Internal Revenue Code. This  
11 subparagraph (Z) is exempt from the provisions of  
12 Section 250;

13 (AA) If the taxpayer sells, transfers, abandons,  
14 or otherwise disposes of property for which the  
15 taxpayer was required in any taxable year to make an  
16 addition modification under subparagraph (D-15), then  
17 an amount equal to that addition modification.

18 If the taxpayer continues to own property through  
19 the last day of the last tax year for which the  
20 taxpayer may claim a depreciation deduction for  
21 federal income tax purposes and for which the taxpayer  
22 was required in any taxable year to make an addition  
23 modification under subparagraph (D-15), then an amount  
24 equal to that addition modification.

25 The taxpayer is allowed to take the deduction under  
26 this subparagraph only once with respect to any one

1 piece of property.

2 This subparagraph (AA) is exempt from the  
3 provisions of Section 250;

4 (BB) Any amount included in adjusted gross income,  
5 other than salary, received by a driver in a  
6 ridesharing arrangement using a motor vehicle;

7 (CC) The amount of (i) any interest income (net of  
8 the deductions allocable thereto) taken into account  
9 for the taxable year with respect to a transaction with  
10 a taxpayer that is required to make an addition  
11 modification with respect to such transaction under  
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
14 the amount of that addition modification, and (ii) any  
15 income from intangible property (net of the deductions  
16 allocable thereto) taken into account for the taxable  
17 year with respect to a transaction with a taxpayer that  
18 is required to make an addition modification with  
19 respect to such transaction under Section  
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
21 203(d)(2)(D-8), but not to exceed the amount of that  
22 addition modification. This subparagraph (CC) is  
23 exempt from the provisions of Section 250;

24 (DD) An amount equal to the interest income taken  
25 into account for the taxable year (net of the  
26 deductions allocable thereto) with respect to

1 transactions with (i) a foreign person who would be a  
2 member of the taxpayer's unitary business group but for  
3 the fact that the foreign person's business activity  
4 outside the United States is 80% or more of that  
5 person's total business activity and (ii) for taxable  
6 years ending on or after December 31, 2008, to a person  
7 who would be a member of the same unitary business  
8 group but for the fact that the person is prohibited  
9 under Section 1501(a)(27) from being included in the  
10 unitary business group because he or she is ordinarily  
11 required to apportion business income under different  
12 subsections of Section 304, but not to exceed the  
13 addition modification required to be made for the same  
14 taxable year under Section 203(a)(2)(D-17) for  
15 interest paid, accrued, or incurred, directly or  
16 indirectly, to the same person. This subparagraph (DD)  
17 is exempt from the provisions of Section 250;

18 (EE) An amount equal to the income from intangible  
19 property taken into account for the taxable year (net  
20 of the deductions allocable thereto) with respect to  
21 transactions with (i) a foreign person who would be a  
22 member of the taxpayer's unitary business group but for  
23 the fact that the foreign person's business activity  
24 outside the United States is 80% or more of that  
25 person's total business activity and (ii) for taxable  
26 years ending on or after December 31, 2008, to a person

1           who would be a member of the same unitary business  
2           group but for the fact that the person is prohibited  
3           under Section 1501(a)(27) from being included in the  
4           unitary business group because he or she is ordinarily  
5           required to apportion business income under different  
6           subsections of Section 304, but not to exceed the  
7           addition modification required to be made for the same  
8           taxable year under Section 203(a)(2)(D-18) for  
9           intangible expenses and costs paid, accrued, or  
10          incurred, directly or indirectly, to the same foreign  
11          person. This subparagraph (EE) is exempt from the  
12          provisions of Section 250;

13           (FF) An amount equal to any amount awarded to the  
14          taxpayer during the taxable year by the Court of Claims  
15          under subsection (c) of Section 8 of the Court of  
16          Claims Act for time unjustly served in a State prison.  
17          This subparagraph (FF) is exempt from the provisions of  
18          Section 250; ~~and~~

19           (GG) For taxable years ending on or after December  
20          31, 2011, in the case of a taxpayer who was required to  
21          add back any insurance premiums under Section  
22          203(a)(2)(D-19), such taxpayer may elect to subtract  
23          that part of a reimbursement received from the  
24          insurance company equal to the amount of the expense or  
25          loss (including expenses incurred by the insurance  
26          company) that would have been taken into account as a

1 deduction for federal income tax purposes if the  
2 expense or loss had been uninsured. If a taxpayer makes  
3 the election provided for by this subparagraph (GG),  
4 the insurer to which the premiums were paid must add  
5 back to income the amount subtracted by the taxpayer  
6 pursuant to this subparagraph (GG). This subparagraph  
7 (GG) is exempt from the provisions of Section 250; ~~and-~~

8 (HH) For taxable years ending on or after December  
9 31, 2013, an amount, to the extent that it is included  
10 in adjusted gross income, equal to any scholarship  
11 redeemed under the School Choice Act. This  
12 subparagraph (HH) is exempt from the provisions of  
13 Section 250.

14 (b) Corporations.

15 (1) In general. In the case of a corporation, base  
16 income means an amount equal to the taxpayer's taxable  
17 income for the taxable year as modified by paragraph (2).

18 (2) Modifications. The taxable income referred to in  
19 paragraph (1) shall be modified by adding thereto the sum  
20 of the following amounts:

21 (A) An amount equal to all amounts paid or accrued  
22 to the taxpayer as interest and all distributions  
23 received from regulated investment companies during  
24 the taxable year to the extent excluded from gross  
25 income in the computation of taxable income;



1           (B) An amount equal to the amount of tax imposed by  
2 this Act to the extent deducted from gross income in  
3 the computation of taxable income for the taxable year;

4           (C) In the case of a regulated investment company,  
5 an amount equal to the excess of (i) the net long-term  
6 capital gain for the taxable year, over (ii) the amount  
7 of the capital gain dividends designated as such in  
8 accordance with Section 852(b)(3)(C) of the Internal  
9 Revenue Code and any amount designated under Section  
10 852(b)(3)(D) of the Internal Revenue Code,  
11 attributable to the taxable year (this amendatory Act  
12 of 1995 (Public Act 89-89) is declarative of existing  
13 law and is not a new enactment);

14           (D) The amount of any net operating loss deduction  
15 taken in arriving at taxable income, other than a net  
16 operating loss carried forward from a taxable year  
17 ending prior to December 31, 1986;

18           (E) For taxable years in which a net operating loss  
19 carryback or carryforward from a taxable year ending  
20 prior to December 31, 1986 is an element of taxable  
21 income under paragraph (1) of subsection (e) or  
22 subparagraph (E) of paragraph (2) of subsection (e),  
23 the amount by which addition modifications other than  
24 those provided by this subparagraph (E) exceeded  
25 subtraction modifications in such earlier taxable  
26 year, with the following limitations applied in the

1 order that they are listed:

2 (i) the addition modification relating to the  
3 net operating loss carried back or forward to the  
4 taxable year from any taxable year ending prior to  
5 December 31, 1986 shall be reduced by the amount of  
6 addition modification under this subparagraph (E)  
7 which related to that net operating loss and which  
8 was taken into account in calculating the base  
9 income of an earlier taxable year, and

10 (ii) the addition modification relating to the  
11 net operating loss carried back or forward to the  
12 taxable year from any taxable year ending prior to  
13 December 31, 1986 shall not exceed the amount of  
14 such carryback or carryforward;

15 For taxable years in which there is a net operating  
16 loss carryback or carryforward from more than one other  
17 taxable year ending prior to December 31, 1986, the  
18 addition modification provided in this subparagraph  
19 (E) shall be the sum of the amounts computed  
20 independently under the preceding provisions of this  
21 subparagraph (E) for each such taxable year;

22 (E-5) For taxable years ending after December 31,  
23 1997, an amount equal to any eligible remediation costs  
24 that the corporation deducted in computing adjusted  
25 gross income and for which the corporation claims a  
26 credit under subsection (1) of Section 201;

1           (E-10) For taxable years 2001 and thereafter, an  
2 amount equal to the bonus depreciation deduction taken  
3 on the taxpayer's federal income tax return for the  
4 taxable year under subsection (k) of Section 168 of the  
5 Internal Revenue Code;

6           (E-11) If the taxpayer sells, transfers, abandons,  
7 or otherwise disposes of property for which the  
8 taxpayer was required in any taxable year to make an  
9 addition modification under subparagraph (E-10), then  
10 an amount equal to the aggregate amount of the  
11 deductions taken in all taxable years under  
12 subparagraph (T) with respect to that property.

13           If the taxpayer continues to own property through  
14 the last day of the last tax year for which the  
15 taxpayer may claim a depreciation deduction for  
16 federal income tax purposes and for which the taxpayer  
17 was allowed in any taxable year to make a subtraction  
18 modification under subparagraph (T), then an amount  
19 equal to that subtraction modification.

20           The taxpayer is required to make the addition  
21 modification under this subparagraph only once with  
22 respect to any one piece of property;

23           (E-12) An amount equal to the amount otherwise  
24 allowed as a deduction in computing base income for  
25 interest paid, accrued, or incurred, directly or  
26 indirectly, (i) for taxable years ending on or after

1 December 31, 2004, to a foreign person who would be a  
2 member of the same unitary business group but for the  
3 fact the foreign person's business activity outside  
4 the United States is 80% or more of the foreign  
5 person's total business activity and (ii) for taxable  
6 years ending on or after December 31, 2008, to a person  
7 who would be a member of the same unitary business  
8 group but for the fact that the person is prohibited  
9 under Section 1501(a)(27) from being included in the  
10 unitary business group because he or she is ordinarily  
11 required to apportion business income under different  
12 subsections of Section 304. The addition modification  
13 required by this subparagraph shall be reduced to the  
14 extent that dividends were included in base income of  
15 the unitary group for the same taxable year and  
16 received by the taxpayer or by a member of the  
17 taxpayer's unitary business group (including amounts  
18 included in gross income pursuant to Sections 951  
19 through 964 of the Internal Revenue Code and amounts  
20 included in gross income under Section 78 of the  
21 Internal Revenue Code) with respect to the stock of the  
22 same person to whom the interest was paid, accrued, or  
23 incurred.

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or  
26 incurred, directly or indirectly, to a person who

1 is subject in a foreign country or state, other  
2 than a state which requires mandatory unitary  
3 reporting, to a tax on or measured by net income  
4 with respect to such interest; or

5 (ii) an item of interest paid, accrued, or  
6 incurred, directly or indirectly, to a person if  
7 the taxpayer can establish, based on a  
8 preponderance of the evidence, both of the  
9 following:

10 (a) the person, during the same taxable  
11 year, paid, accrued, or incurred, the interest  
12 to a person that is not a related member, and

13 (b) the transaction giving rise to the  
14 interest expense between the taxpayer and the  
15 person did not have as a principal purpose the  
16 avoidance of Illinois income tax, and is paid  
17 pursuant to a contract or agreement that  
18 reflects an arm's-length interest rate and  
19 terms; or

20 (iii) the taxpayer can establish, based on  
21 clear and convincing evidence, that the interest  
22 paid, accrued, or incurred relates to a contract or  
23 agreement entered into at arm's-length rates and  
24 terms and the principal purpose for the payment is  
25 not federal or Illinois tax avoidance; or

26 (iv) an item of interest paid, accrued, or

1           incurred, directly or indirectly, to a person if  
2           the taxpayer establishes by clear and convincing  
3           evidence that the adjustments are unreasonable; or  
4           if the taxpayer and the Director agree in writing  
5           to the application or use of an alternative method  
6           of apportionment under Section 304(f).

7           Nothing in this subsection shall preclude the  
8           Director from making any other adjustment  
9           otherwise allowed under Section 404 of this Act for  
10          any tax year beginning after the effective date of  
11          this amendment provided such adjustment is made  
12          pursuant to regulation adopted by the Department  
13          and such regulations provide methods and standards  
14          by which the Department will utilize its authority  
15          under Section 404 of this Act;

16          (E-13) An amount equal to the amount of intangible  
17          expenses and costs otherwise allowed as a deduction in  
18          computing base income, and that were paid, accrued, or  
19          incurred, directly or indirectly, (i) for taxable  
20          years ending on or after December 31, 2004, to a  
21          foreign person who would be a member of the same  
22          unitary business group but for the fact that the  
23          foreign person's business activity outside the United  
24          States is 80% or more of that person's total business  
25          activity and (ii) for taxable years ending on or after  
26          December 31, 2008, to a person who would be a member of

1 the same unitary business group but for the fact that  
2 the person is prohibited under Section 1501(a)(27)  
3 from being included in the unitary business group  
4 because he or she is ordinarily required to apportion  
5 business income under different subsections of Section  
6 304. The addition modification required by this  
7 subparagraph shall be reduced to the extent that  
8 dividends were included in base income of the unitary  
9 group for the same taxable year and received by the  
10 taxpayer or by a member of the taxpayer's unitary  
11 business group (including amounts included in gross  
12 income pursuant to Sections 951 through 964 of the  
13 Internal Revenue Code and amounts included in gross  
14 income under Section 78 of the Internal Revenue Code)  
15 with respect to the stock of the same person to whom  
16 the intangible expenses and costs were directly or  
17 indirectly paid, incurred, or accrued. The preceding  
18 sentence shall not apply to the extent that the same  
19 dividends caused a reduction to the addition  
20 modification required under Section 203(b)(2)(E-12) of  
21 this Act. As used in this subparagraph, the term  
22 "intangible expenses and costs" includes (1) expenses,  
23 losses, and costs for, or related to, the direct or  
24 indirect acquisition, use, maintenance or management,  
25 ownership, sale, exchange, or any other disposition of  
26 intangible property; (2) losses incurred, directly or

1 indirectly, from factoring transactions or discounting  
2 transactions; (3) royalty, patent, technical, and  
3 copyright fees; (4) licensing fees; and (5) other  
4 similar expenses and costs. For purposes of this  
5 subparagraph, "intangible property" includes patents,  
6 patent applications, trade names, trademarks, service  
7 marks, copyrights, mask works, trade secrets, and  
8 similar types of intangible assets.

9 This paragraph shall not apply to the following:

10 (i) any item of intangible expenses or costs  
11 paid, accrued, or incurred, directly or  
12 indirectly, from a transaction with a person who is  
13 subject in a foreign country or state, other than a  
14 state which requires mandatory unitary reporting,  
15 to a tax on or measured by net income with respect  
16 to such item; or

17 (ii) any item of intangible expense or cost  
18 paid, accrued, or incurred, directly or  
19 indirectly, if the taxpayer can establish, based  
20 on a preponderance of the evidence, both of the  
21 following:

22 (a) the person during the same taxable  
23 year paid, accrued, or incurred, the  
24 intangible expense or cost to a person that is  
25 not a related member, and

26 (b) the transaction giving rise to the



1 intangible expense or cost between the  
2 taxpayer and the person did not have as a  
3 principal purpose the avoidance of Illinois  
4 income tax, and is paid pursuant to a contract  
5 or agreement that reflects arm's-length terms;  
6 or

7 (iii) any item of intangible expense or cost  
8 paid, accrued, or incurred, directly or  
9 indirectly, from a transaction with a person if the  
10 taxpayer establishes by clear and convincing  
11 evidence, that the adjustments are unreasonable;  
12 or if the taxpayer and the Director agree in  
13 writing to the application or use of an alternative  
14 method of apportionment under Section 304(f);

15 Nothing in this subsection shall preclude the  
16 Director from making any other adjustment  
17 otherwise allowed under Section 404 of this Act for  
18 any tax year beginning after the effective date of  
19 this amendment provided such adjustment is made  
20 pursuant to regulation adopted by the Department  
21 and such regulations provide methods and standards  
22 by which the Department will utilize its authority  
23 under Section 404 of this Act;

24 (E-14) For taxable years ending on or after  
25 December 31, 2008, an amount equal to the amount of  
26 insurance premium expenses and costs otherwise allowed

1 as a deduction in computing base income, and that were  
2 paid, accrued, or incurred, directly or indirectly, to  
3 a person who would be a member of the same unitary  
4 business group but for the fact that the person is  
5 prohibited under Section 1501(a)(27) from being  
6 included in the unitary business group because he or  
7 she is ordinarily required to apportion business  
8 income under different subsections of Section 304. The  
9 addition modification required by this subparagraph  
10 shall be reduced to the extent that dividends were  
11 included in base income of the unitary group for the  
12 same taxable year and received by the taxpayer or by a  
13 member of the taxpayer's unitary business group  
14 (including amounts included in gross income under  
15 Sections 951 through 964 of the Internal Revenue Code  
16 and amounts included in gross income under Section 78  
17 of the Internal Revenue Code) with respect to the stock  
18 of the same person to whom the premiums and costs were  
19 directly or indirectly paid, incurred, or accrued. The  
20 preceding sentence does not apply to the extent that  
21 the same dividends caused a reduction to the addition  
22 modification required under Section 203(b)(2)(E-12) or  
23 Section 203(b)(2)(E-13) of this Act;

24 (E-15) For taxable years beginning after December  
25 31, 2008, any deduction for dividends paid by a captive  
26 real estate investment trust that is allowed to a real

1 estate investment trust under Section 857(b)(2)(B) of  
2 the Internal Revenue Code for dividends paid;

3 (E-16) An amount equal to the credit allowable to  
4 the taxpayer under Section 218(a) of this Act,  
5 determined without regard to Section 218(c) of this  
6 Act;

7 and by deducting from the total so obtained the sum of the  
8 following amounts:

9 (F) An amount equal to the amount of any tax  
10 imposed by this Act which was refunded to the taxpayer  
11 and included in such total for the taxable year;

12 (G) An amount equal to any amount included in such  
13 total under Section 78 of the Internal Revenue Code;

14 (H) In the case of a regulated investment company,  
15 an amount equal to the amount of exempt interest  
16 dividends as defined in subsection (b)(5) of Section  
17 852 of the Internal Revenue Code, paid to shareholders  
18 for the taxable year;

19 (I) With the exception of any amounts subtracted  
20 under subparagraph (J), an amount equal to the sum of  
21 all amounts disallowed as deductions by (i) Sections  
22 171(a)(2), and 265(a)(2) and amounts disallowed as  
23 interest expense by Section 291(a)(3) of the Internal  
24 Revenue Code, and all amounts of expenses allocable to  
25 interest and disallowed as deductions by Section  
26 265(a)(1) of the Internal Revenue Code; and (ii) for

1 taxable years ending on or after August 13, 1999,  
2 Sections 171(a)(2), 265, 280C, 291(a)(3), and  
3 832(b)(5)(B)(i) of the Internal Revenue Code, plus,  
4 for tax years ending on or after December 31, 2011,  
5 amounts disallowed as deductions by Section 45G(e)(3)  
6 of the Internal Revenue Code and, for taxable years  
7 ending on or after December 31, 2008, any amount  
8 included in gross income under Section 87 of the  
9 Internal Revenue Code and the policyholders' share of  
10 tax-exempt interest of a life insurance company under  
11 Section 807(a)(2)(B) of the Internal Revenue Code (in  
12 the case of a life insurance company with gross income  
13 from a decrease in reserves for the tax year) or  
14 Section 807(b)(1)(B) of the Internal Revenue Code (in  
15 the case of a life insurance company allowed a  
16 deduction for an increase in reserves for the tax  
17 year); the provisions of this subparagraph are exempt  
18 from the provisions of Section 250;

19 (J) An amount equal to all amounts included in such  
20 total which are exempt from taxation by this State  
21 either by reason of its statutes or Constitution or by  
22 reason of the Constitution, treaties or statutes of the  
23 United States; provided that, in the case of any  
24 statute of this State that exempts income derived from  
25 bonds or other obligations from the tax imposed under  
26 this Act, the amount exempted shall be the interest net

1 of bond premium amortization;

2 (K) An amount equal to those dividends included in  
3 such total which were paid by a corporation which  
4 conducts business operations in a River Edge  
5 Redevelopment Zone or zones created under the River  
6 Edge Redevelopment Zone Act and conducts substantially  
7 all of its operations in a River Edge Redevelopment  
8 Zone or zones. This subparagraph (K) is exempt from the  
9 provisions of Section 250;

10 (L) An amount equal to those dividends included in  
11 such total that were paid by a corporation that  
12 conducts business operations in a federally designated  
13 Foreign Trade Zone or Sub-Zone and that is designated a  
14 High Impact Business located in Illinois; provided  
15 that dividends eligible for the deduction provided in  
16 subparagraph (K) of paragraph 2 of this subsection  
17 shall not be eligible for the deduction provided under  
18 this subparagraph (L);

19 (M) For any taxpayer that is a financial  
20 organization within the meaning of Section 304(c) of  
21 this Act, an amount included in such total as interest  
22 income from a loan or loans made by such taxpayer to a  
23 borrower, to the extent that such a loan is secured by  
24 property which is eligible for the River Edge  
25 Redevelopment Zone Investment Credit. To determine the  
26 portion of a loan or loans that is secured by property

1 eligible for a Section 201(f) investment credit to the  
2 borrower, the entire principal amount of the loan or  
3 loans between the taxpayer and the borrower should be  
4 divided into the basis of the Section 201(f) investment  
5 credit property which secures the loan or loans, using  
6 for this purpose the original basis of such property on  
7 the date that it was placed in service in the River  
8 Edge Redevelopment Zone. The subtraction modification  
9 available to taxpayer in any year under this subsection  
10 shall be that portion of the total interest paid by the  
11 borrower with respect to such loan attributable to the  
12 eligible property as calculated under the previous  
13 sentence. This subparagraph (M) is exempt from the  
14 provisions of Section 250;

15 (M-1) For any taxpayer that is a financial  
16 organization within the meaning of Section 304(c) of  
17 this Act, an amount included in such total as interest  
18 income from a loan or loans made by such taxpayer to a  
19 borrower, to the extent that such a loan is secured by  
20 property which is eligible for the High Impact Business  
21 Investment Credit. To determine the portion of a loan  
22 or loans that is secured by property eligible for a  
23 Section 201(h) investment credit to the borrower, the  
24 entire principal amount of the loan or loans between  
25 the taxpayer and the borrower should be divided into  
26 the basis of the Section 201(h) investment credit

1 property which secures the loan or loans, using for  
2 this purpose the original basis of such property on the  
3 date that it was placed in service in a federally  
4 designated Foreign Trade Zone or Sub-Zone located in  
5 Illinois. No taxpayer that is eligible for the  
6 deduction provided in subparagraph (M) of paragraph  
7 (2) of this subsection shall be eligible for the  
8 deduction provided under this subparagraph (M-1). The  
9 subtraction modification available to taxpayers in any  
10 year under this subsection shall be that portion of the  
11 total interest paid by the borrower with respect to  
12 such loan attributable to the eligible property as  
13 calculated under the previous sentence;

14 (N) Two times any contribution made during the  
15 taxable year to a designated zone organization to the  
16 extent that the contribution (i) qualifies as a  
17 charitable contribution under subsection (c) of  
18 Section 170 of the Internal Revenue Code and (ii) must,  
19 by its terms, be used for a project approved by the  
20 Department of Commerce and Economic Opportunity under  
21 Section 11 of the Illinois Enterprise Zone Act or under  
22 Section 10-10 of the River Edge Redevelopment Zone Act.  
23 This subparagraph (N) is exempt from the provisions of  
24 Section 250;

25 (O) An amount equal to: (i) 85% for taxable years  
26 ending on or before December 31, 1992, or, a percentage

1 equal to the percentage allowable under Section  
2 243(a)(1) of the Internal Revenue Code of 1986 for  
3 taxable years ending after December 31, 1992, of the  
4 amount by which dividends included in taxable income  
5 and received from a corporation that is not created or  
6 organized under the laws of the United States or any  
7 state or political subdivision thereof, including, for  
8 taxable years ending on or after December 31, 1988,  
9 dividends received or deemed received or paid or deemed  
10 paid under Sections 951 through 965 of the Internal  
11 Revenue Code, exceed the amount of the modification  
12 provided under subparagraph (G) of paragraph (2) of  
13 this subsection (b) which is related to such dividends,  
14 and including, for taxable years ending on or after  
15 December 31, 2008, dividends received from a captive  
16 real estate investment trust; plus (ii) 100% of the  
17 amount by which dividends, included in taxable income  
18 and received, including, for taxable years ending on or  
19 after December 31, 1988, dividends received or deemed  
20 received or paid or deemed paid under Sections 951  
21 through 964 of the Internal Revenue Code and including,  
22 for taxable years ending on or after December 31, 2008,  
23 dividends received from a captive real estate  
24 investment trust, from any such corporation specified  
25 in clause (i) that would but for the provisions of  
26 Section 1504 (b) (3) of the Internal Revenue Code be



1 treated as a member of the affiliated group which  
2 includes the dividend recipient, exceed the amount of  
3 the modification provided under subparagraph (G) of  
4 paragraph (2) of this subsection (b) which is related  
5 to such dividends. This subparagraph (O) is exempt from  
6 the provisions of Section 250 of this Act;

7 (P) An amount equal to any contribution made to a  
8 job training project established pursuant to the Tax  
9 Increment Allocation Redevelopment Act;

10 (Q) An amount equal to the amount of the deduction  
11 used to compute the federal income tax credit for  
12 restoration of substantial amounts held under claim of  
13 right for the taxable year pursuant to Section 1341 of  
14 the Internal Revenue Code;

15 (R) On and after July 20, 1999, in the case of an  
16 attorney-in-fact with respect to whom an interinsurer  
17 or a reciprocal insurer has made the election under  
18 Section 835 of the Internal Revenue Code, 26 U.S.C.  
19 835, an amount equal to the excess, if any, of the  
20 amounts paid or incurred by that interinsurer or  
21 reciprocal insurer in the taxable year to the  
22 attorney-in-fact over the deduction allowed to that  
23 interinsurer or reciprocal insurer with respect to the  
24 attorney-in-fact under Section 835(b) of the Internal  
25 Revenue Code for the taxable year; the provisions of  
26 this subparagraph are exempt from the provisions of

1 Section 250;

2 (S) For taxable years ending on or after December  
3 31, 1997, in the case of a Subchapter S corporation, an  
4 amount equal to all amounts of income allocable to a  
5 shareholder subject to the Personal Property Tax  
6 Replacement Income Tax imposed by subsections (c) and  
7 (d) of Section 201 of this Act, including amounts  
8 allocable to organizations exempt from federal income  
9 tax by reason of Section 501(a) of the Internal Revenue  
10 Code. This subparagraph (S) is exempt from the  
11 provisions of Section 250;

12 (T) For taxable years 2001 and thereafter, for the  
13 taxable year in which the bonus depreciation deduction  
14 is taken on the taxpayer's federal income tax return  
15 under subsection (k) of Section 168 of the Internal  
16 Revenue Code and for each applicable taxable year  
17 thereafter, an amount equal to "x", where:

18 (1) "y" equals the amount of the depreciation  
19 deduction taken for the taxable year on the  
20 taxpayer's federal income tax return on property  
21 for which the bonus depreciation deduction was  
22 taken in any year under subsection (k) of Section  
23 168 of the Internal Revenue Code, but not including  
24 the bonus depreciation deduction;

25 (2) for taxable years ending on or before  
26 December 31, 2005, "x" equals "y" multiplied by 30

1                   and then divided by 70 (or "y" multiplied by  
2                   0.429); and

3                   (3) for taxable years ending after December  
4                   31, 2005:

5                   (i) for property on which a bonus  
6                   depreciation deduction of 30% of the adjusted  
7                   basis was taken, "x" equals "y" multiplied by  
8                   30 and then divided by 70 (or "y" multiplied by  
9                   0.429); and

10                  (ii) for property on which a bonus  
11                  depreciation deduction of 50% of the adjusted  
12                  basis was taken, "x" equals "y" multiplied by  
13                  1.0.

14                  The aggregate amount deducted under this  
15                  subparagraph in all taxable years for any one piece of  
16                  property may not exceed the amount of the bonus  
17                  depreciation deduction taken on that property on the  
18                  taxpayer's federal income tax return under subsection  
19                  (k) of Section 168 of the Internal Revenue Code. This  
20                  subparagraph (T) is exempt from the provisions of  
21                  Section 250;

22                  (U) If the taxpayer sells, transfers, abandons, or  
23                  otherwise disposes of property for which the taxpayer  
24                  was required in any taxable year to make an addition  
25                  modification under subparagraph (E-10), then an amount  
26                  equal to that addition modification.

1           If the taxpayer continues to own property through  
2           the last day of the last tax year for which the  
3           taxpayer may claim a depreciation deduction for  
4           federal income tax purposes and for which the taxpayer  
5           was required in any taxable year to make an addition  
6           modification under subparagraph (E-10), then an amount  
7           equal to that addition modification.

8           The taxpayer is allowed to take the deduction under  
9           this subparagraph only once with respect to any one  
10          piece of property.

11          This subparagraph (U) is exempt from the  
12          provisions of Section 250;

13          (V) The amount of: (i) any interest income (net of  
14          the deductions allocable thereto) taken into account  
15          for the taxable year with respect to a transaction with  
16          a taxpayer that is required to make an addition  
17          modification with respect to such transaction under  
18          Section        203(a)(2)(D-17),        203(b)(2)(E-12),  
19          203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
20          the amount of such addition modification, (ii) any  
21          income from intangible property (net of the deductions  
22          allocable thereto) taken into account for the taxable  
23          year with respect to a transaction with a taxpayer that  
24          is required to make an addition modification with  
25          respect to such transaction under Section  
26          203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or

1           203(d) (2) (D-8), but not to exceed the amount of such  
2           addition modification, and (iii) any insurance premium  
3           income (net of deductions allocable thereto) taken  
4           into account for the taxable year with respect to a  
5           transaction with a taxpayer that is required to make an  
6           addition modification with respect to such transaction  
7           under           Section           203(a) (2) (D-19),           Section  
8           203(b) (2) (E-14), Section 203(c) (2) (G-14), or Section  
9           203(d) (2) (D-9), but not to exceed the amount of that  
10          addition modification. This subparagraph (V) is exempt  
11          from the provisions of Section 250;

12           (W) An amount equal to the interest income taken  
13          into account for the taxable year (net of the  
14          deductions allocable thereto) with respect to  
15          transactions with (i) a foreign person who would be a  
16          member of the taxpayer's unitary business group but for  
17          the fact that the foreign person's business activity  
18          outside the United States is 80% or more of that  
19          person's total business activity and (ii) for taxable  
20          years ending on or after December 31, 2008, to a person  
21          who would be a member of the same unitary business  
22          group but for the fact that the person is prohibited  
23          under Section 1501(a) (27) from being included in the  
24          unitary business group because he or she is ordinarily  
25          required to apportion business income under different  
26          subsections of Section 304, but not to exceed the

1 addition modification required to be made for the same  
2 taxable year under Section 203(b)(2)(E-12) for  
3 interest paid, accrued, or incurred, directly or  
4 indirectly, to the same person. This subparagraph (W)  
5 is exempt from the provisions of Section 250;

6 (X) An amount equal to the income from intangible  
7 property taken into account for the taxable year (net  
8 of the deductions allocable thereto) with respect to  
9 transactions with (i) a foreign person who would be a  
10 member of the taxpayer's unitary business group but for  
11 the fact that the foreign person's business activity  
12 outside the United States is 80% or more of that  
13 person's total business activity and (ii) for taxable  
14 years ending on or after December 31, 2008, to a person  
15 who would be a member of the same unitary business  
16 group but for the fact that the person is prohibited  
17 under Section 1501(a)(27) from being included in the  
18 unitary business group because he or she is ordinarily  
19 required to apportion business income under different  
20 subsections of Section 304, but not to exceed the  
21 addition modification required to be made for the same  
22 taxable year under Section 203(b)(2)(E-13) for  
23 intangible expenses and costs paid, accrued, or  
24 incurred, directly or indirectly, to the same foreign  
25 person. This subparagraph (X) is exempt from the  
26 provisions of Section 250;

1           (Y) For taxable years ending on or after December  
2           31, 2011, in the case of a taxpayer who was required to  
3           add back any insurance premiums under Section  
4           203(b)(2)(E-14), such taxpayer may elect to subtract  
5           that part of a reimbursement received from the  
6           insurance company equal to the amount of the expense or  
7           loss (including expenses incurred by the insurance  
8           company) that would have been taken into account as a  
9           deduction for federal income tax purposes if the  
10          expense or loss had been uninsured. If a taxpayer makes  
11          the election provided for by this subparagraph (Y), the  
12          insurer to which the premiums were paid must add back  
13          to income the amount subtracted by the taxpayer  
14          pursuant to this subparagraph (Y). This subparagraph  
15          (Y) is exempt from the provisions of Section 250; and

16          (Z) The difference between the nondeductible  
17          controlled foreign corporation dividends under Section  
18          965(e)(3) of the Internal Revenue Code over the taxable  
19          income of the taxpayer, computed without regard to  
20          Section 965(e)(2)(A) of the Internal Revenue Code, and  
21          without regard to any net operating loss deduction.  
22          This subparagraph (Z) is exempt from the provisions of  
23          Section 250.

24          (3) Special rule. For purposes of paragraph (2) (A),  
25          "gross income" in the case of a life insurance company, for  
26          tax years ending on and after December 31, 1994, and prior

1 to December 31, 2011, shall mean the gross investment  
2 income for the taxable year and, for tax years ending on or  
3 after December 31, 2011, shall mean all amounts included in  
4 life insurance gross income under Section 803(a)(3) of the  
5 Internal Revenue Code.

6 (c) Trusts and estates.

7 (1) In general. In the case of a trust or estate, base  
8 income means an amount equal to the taxpayer's taxable  
9 income for the taxable year as modified by paragraph (2).

10 (2) Modifications. Subject to the provisions of  
11 paragraph (3), the taxable income referred to in paragraph  
12 (1) shall be modified by adding thereto the sum of the  
13 following amounts:

14 (A) An amount equal to all amounts paid or accrued  
15 to the taxpayer as interest or dividends during the  
16 taxable year to the extent excluded from gross income  
17 in the computation of taxable income;

18 (B) In the case of (i) an estate, \$600; (ii) a  
19 trust which, under its governing instrument, is  
20 required to distribute all of its income currently,  
21 \$300; and (iii) any other trust, \$100, but in each such  
22 case, only to the extent such amount was deducted in  
23 the computation of taxable income;

24 (C) An amount equal to the amount of tax imposed by  
25 this Act to the extent deducted from gross income in



1 the computation of taxable income for the taxable year;

2 (D) The amount of any net operating loss deduction  
3 taken in arriving at taxable income, other than a net  
4 operating loss carried forward from a taxable year  
5 ending prior to December 31, 1986;

6 (E) For taxable years in which a net operating loss  
7 carryback or carryforward from a taxable year ending  
8 prior to December 31, 1986 is an element of taxable  
9 income under paragraph (1) of subsection (e) or  
10 subparagraph (E) of paragraph (2) of subsection (e),  
11 the amount by which addition modifications other than  
12 those provided by this subparagraph (E) exceeded  
13 subtraction modifications in such taxable year, with  
14 the following limitations applied in the order that  
15 they are listed:

16 (i) the addition modification relating to the  
17 net operating loss carried back or forward to the  
18 taxable year from any taxable year ending prior to  
19 December 31, 1986 shall be reduced by the amount of  
20 addition modification under this subparagraph (E)  
21 which related to that net operating loss and which  
22 was taken into account in calculating the base  
23 income of an earlier taxable year, and

24 (ii) the addition modification relating to the  
25 net operating loss carried back or forward to the  
26 taxable year from any taxable year ending prior to

1           December 31, 1986 shall not exceed the amount of  
2           such carryback or carryforward;

3           For taxable years in which there is a net operating  
4           loss carryback or carryforward from more than one other  
5           taxable year ending prior to December 31, 1986, the  
6           addition modification provided in this subparagraph  
7           (E) shall be the sum of the amounts computed  
8           independently under the preceding provisions of this  
9           subparagraph (E) for each such taxable year;

10           (F) For taxable years ending on or after January 1,  
11           1989, an amount equal to the tax deducted pursuant to  
12           Section 164 of the Internal Revenue Code if the trust  
13           or estate is claiming the same tax for purposes of the  
14           Illinois foreign tax credit under Section 601 of this  
15           Act;

16           (G) An amount equal to the amount of the capital  
17           gain deduction allowable under the Internal Revenue  
18           Code, to the extent deducted from gross income in the  
19           computation of taxable income;

20           (G-5) For taxable years ending after December 31,  
21           1997, an amount equal to any eligible remediation costs  
22           that the trust or estate deducted in computing adjusted  
23           gross income and for which the trust or estate claims a  
24           credit under subsection (l) of Section 201;

25           (G-10) For taxable years 2001 and thereafter, an  
26           amount equal to the bonus depreciation deduction taken

1 on the taxpayer's federal income tax return for the  
2 taxable year under subsection (k) of Section 168 of the  
3 Internal Revenue Code; and

4 (G-11) If the taxpayer sells, transfers, abandons,  
5 or otherwise disposes of property for which the  
6 taxpayer was required in any taxable year to make an  
7 addition modification under subparagraph (G-10), then  
8 an amount equal to the aggregate amount of the  
9 deductions taken in all taxable years under  
10 subparagraph (R) with respect to that property.

11 If the taxpayer continues to own property through  
12 the last day of the last tax year for which the  
13 taxpayer may claim a depreciation deduction for  
14 federal income tax purposes and for which the taxpayer  
15 was allowed in any taxable year to make a subtraction  
16 modification under subparagraph (R), then an amount  
17 equal to that subtraction modification.

18 The taxpayer is required to make the addition  
19 modification under this subparagraph only once with  
20 respect to any one piece of property;

21 (G-12) An amount equal to the amount otherwise  
22 allowed as a deduction in computing base income for  
23 interest paid, accrued, or incurred, directly or  
24 indirectly, (i) for taxable years ending on or after  
25 December 31, 2004, to a foreign person who would be a  
26 member of the same unitary business group but for the

1 fact that the foreign person's business activity  
2 outside the United States is 80% or more of the foreign  
3 person's total business activity and (ii) for taxable  
4 years ending on or after December 31, 2008, to a person  
5 who would be a member of the same unitary business  
6 group but for the fact that the person is prohibited  
7 under Section 1501(a)(27) from being included in the  
8 unitary business group because he or she is ordinarily  
9 required to apportion business income under different  
10 subsections of Section 304. The addition modification  
11 required by this subparagraph shall be reduced to the  
12 extent that dividends were included in base income of  
13 the unitary group for the same taxable year and  
14 received by the taxpayer or by a member of the  
15 taxpayer's unitary business group (including amounts  
16 included in gross income pursuant to Sections 951  
17 through 964 of the Internal Revenue Code and amounts  
18 included in gross income under Section 78 of the  
19 Internal Revenue Code) with respect to the stock of the  
20 same person to whom the interest was paid, accrued, or  
21 incurred.

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a person who  
25 is subject in a foreign country or state, other  
26 than a state which requires mandatory unitary

1 reporting, to a tax on or measured by net income  
2 with respect to such interest; or

3 (ii) an item of interest paid, accrued, or  
4 incurred, directly or indirectly, to a person if  
5 the taxpayer can establish, based on a  
6 preponderance of the evidence, both of the  
7 following:

8 (a) the person, during the same taxable  
9 year, paid, accrued, or incurred, the interest  
10 to a person that is not a related member, and

11 (b) the transaction giving rise to the  
12 interest expense between the taxpayer and the  
13 person did not have as a principal purpose the  
14 avoidance of Illinois income tax, and is paid  
15 pursuant to a contract or agreement that  
16 reflects an arm's-length interest rate and  
17 terms; or

18 (iii) the taxpayer can establish, based on  
19 clear and convincing evidence, that the interest  
20 paid, accrued, or incurred relates to a contract or  
21 agreement entered into at arm's-length rates and  
22 terms and the principal purpose for the payment is  
23 not federal or Illinois tax avoidance; or

24 (iv) an item of interest paid, accrued, or  
25 incurred, directly or indirectly, to a person if  
26 the taxpayer establishes by clear and convincing

1 evidence that the adjustments are unreasonable; or  
2 if the taxpayer and the Director agree in writing  
3 to the application or use of an alternative method  
4 of apportionment under Section 304(f).

5 Nothing in this subsection shall preclude the  
6 Director from making any other adjustment  
7 otherwise allowed under Section 404 of this Act for  
8 any tax year beginning after the effective date of  
9 this amendment provided such adjustment is made  
10 pursuant to regulation adopted by the Department  
11 and such regulations provide methods and standards  
12 by which the Department will utilize its authority  
13 under Section 404 of this Act;

14 (G-13) An amount equal to the amount of intangible  
15 expenses and costs otherwise allowed as a deduction in  
16 computing base income, and that were paid, accrued, or  
17 incurred, directly or indirectly, (i) for taxable  
18 years ending on or after December 31, 2004, to a  
19 foreign person who would be a member of the same  
20 unitary business group but for the fact that the  
21 foreign person's business activity outside the United  
22 States is 80% or more of that person's total business  
23 activity and (ii) for taxable years ending on or after  
24 December 31, 2008, to a person who would be a member of  
25 the same unitary business group but for the fact that  
26 the person is prohibited under Section 1501(a)(27)

1 from being included in the unitary business group  
2 because he or she is ordinarily required to apportion  
3 business income under different subsections of Section  
4 304. The addition modification required by this  
5 subparagraph shall be reduced to the extent that  
6 dividends were included in base income of the unitary  
7 group for the same taxable year and received by the  
8 taxpayer or by a member of the taxpayer's unitary  
9 business group (including amounts included in gross  
10 income pursuant to Sections 951 through 964 of the  
11 Internal Revenue Code and amounts included in gross  
12 income under Section 78 of the Internal Revenue Code)  
13 with respect to the stock of the same person to whom  
14 the intangible expenses and costs were directly or  
15 indirectly paid, incurred, or accrued. The preceding  
16 sentence shall not apply to the extent that the same  
17 dividends caused a reduction to the addition  
18 modification required under Section 203(c)(2)(G-12) of  
19 this Act. As used in this subparagraph, the term  
20 "intangible expenses and costs" includes: (1)  
21 expenses, losses, and costs for or related to the  
22 direct or indirect acquisition, use, maintenance or  
23 management, ownership, sale, exchange, or any other  
24 disposition of intangible property; (2) losses  
25 incurred, directly or indirectly, from factoring  
26 transactions or discounting transactions; (3) royalty,

1 patent, technical, and copyright fees; (4) licensing  
2 fees; and (5) other similar expenses and costs. For  
3 purposes of this subparagraph, "intangible property"  
4 includes patents, patent applications, trade names,  
5 trademarks, service marks, copyrights, mask works,  
6 trade secrets, and similar types of intangible assets.

7 This paragraph shall not apply to the following:

8 (i) any item of intangible expenses or costs  
9 paid, accrued, or incurred, directly or  
10 indirectly, from a transaction with a person who is  
11 subject in a foreign country or state, other than a  
12 state which requires mandatory unitary reporting,  
13 to a tax on or measured by net income with respect  
14 to such item; or

15 (ii) any item of intangible expense or cost  
16 paid, accrued, or incurred, directly or  
17 indirectly, if the taxpayer can establish, based  
18 on a preponderance of the evidence, both of the  
19 following:

20 (a) the person during the same taxable  
21 year paid, accrued, or incurred, the  
22 intangible expense or cost to a person that is  
23 not a related member, and

24 (b) the transaction giving rise to the  
25 intangible expense or cost between the  
26 taxpayer and the person did not have as a



1 principal purpose the avoidance of Illinois  
2 income tax, and is paid pursuant to a contract  
3 or agreement that reflects arm's-length terms;  
4 or

5 (iii) any item of intangible expense or cost  
6 paid, accrued, or incurred, directly or  
7 indirectly, from a transaction with a person if the  
8 taxpayer establishes by clear and convincing  
9 evidence, that the adjustments are unreasonable;  
10 or if the taxpayer and the Director agree in  
11 writing to the application or use of an alternative  
12 method of apportionment under Section 304(f);

13 Nothing in this subsection shall preclude the  
14 Director from making any other adjustment  
15 otherwise allowed under Section 404 of this Act for  
16 any tax year beginning after the effective date of  
17 this amendment provided such adjustment is made  
18 pursuant to regulation adopted by the Department  
19 and such regulations provide methods and standards  
20 by which the Department will utilize its authority  
21 under Section 404 of this Act;

22 (G-14) For taxable years ending on or after  
23 December 31, 2008, an amount equal to the amount of  
24 insurance premium expenses and costs otherwise allowed  
25 as a deduction in computing base income, and that were  
26 paid, accrued, or incurred, directly or indirectly, to

1 a person who would be a member of the same unitary  
2 business group but for the fact that the person is  
3 prohibited under Section 1501(a)(27) from being  
4 included in the unitary business group because he or  
5 she is ordinarily required to apportion business  
6 income under different subsections of Section 304. The  
7 addition modification required by this subparagraph  
8 shall be reduced to the extent that dividends were  
9 included in base income of the unitary group for the  
10 same taxable year and received by the taxpayer or by a  
11 member of the taxpayer's unitary business group  
12 (including amounts included in gross income under  
13 Sections 951 through 964 of the Internal Revenue Code  
14 and amounts included in gross income under Section 78  
15 of the Internal Revenue Code) with respect to the stock  
16 of the same person to whom the premiums and costs were  
17 directly or indirectly paid, incurred, or accrued. The  
18 preceding sentence does not apply to the extent that  
19 the same dividends caused a reduction to the addition  
20 modification required under Section 203(c)(2)(G-12) or  
21 Section 203(c)(2)(G-13) of this Act;

22 (G-15) An amount equal to the credit allowable to  
23 the taxpayer under Section 218(a) of this Act,  
24 determined without regard to Section 218(c) of this  
25 Act;

26 and by deducting from the total so obtained the sum of the

1 following amounts:

2 (H) An amount equal to all amounts included in such  
3 total pursuant to the provisions of Sections 402(a),  
4 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
5 Internal Revenue Code or included in such total as  
6 distributions under the provisions of any retirement  
7 or disability plan for employees of any governmental  
8 agency or unit, or retirement payments to retired  
9 partners, which payments are excluded in computing net  
10 earnings from self employment by Section 1402 of the  
11 Internal Revenue Code and regulations adopted pursuant  
12 thereto;

13 (I) The valuation limitation amount;

14 (J) An amount equal to the amount of any tax  
15 imposed by this Act which was refunded to the taxpayer  
16 and included in such total for the taxable year;

17 (K) An amount equal to all amounts included in  
18 taxable income as modified by subparagraphs (A), (B),  
19 (C), (D), (E), (F) and (G) which are exempt from  
20 taxation by this State either by reason of its statutes  
21 or Constitution or by reason of the Constitution,  
22 treaties or statutes of the United States; provided  
23 that, in the case of any statute of this State that  
24 exempts income derived from bonds or other obligations  
25 from the tax imposed under this Act, the amount  
26 exempted shall be the interest net of bond premium

1 amortization;

2 (L) With the exception of any amounts subtracted  
3 under subparagraph (K), an amount equal to the sum of  
4 all amounts disallowed as deductions by (i) Sections  
5 171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
6 and all amounts of expenses allocable to interest and  
7 disallowed as deductions by Section 265(1) of the  
8 Internal Revenue Code; and (ii) for taxable years  
9 ending on or after August 13, 1999, Sections 171(a) (2),  
10 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
11 Code, plus, (iii) for taxable years ending on or after  
12 December 31, 2011, Section 45G(e) (3) of the Internal  
13 Revenue Code and, for taxable years ending on or after  
14 December 31, 2008, any amount included in gross income  
15 under Section 87 of the Internal Revenue Code; the  
16 provisions of this subparagraph are exempt from the  
17 provisions of Section 250;

18 (M) An amount equal to those dividends included in  
19 such total which were paid by a corporation which  
20 conducts business operations in a River Edge  
21 Redevelopment Zone or zones created under the River  
22 Edge Redevelopment Zone Act and conducts substantially  
23 all of its operations in a River Edge Redevelopment  
24 Zone or zones. This subparagraph (M) is exempt from the  
25 provisions of Section 250;

26 (N) An amount equal to any contribution made to a

1           job training project established pursuant to the Tax  
2           Increment Allocation Redevelopment Act;

3           (O) An amount equal to those dividends included in  
4           such total that were paid by a corporation that  
5           conducts business operations in a federally designated  
6           Foreign Trade Zone or Sub-Zone and that is designated a  
7           High Impact Business located in Illinois; provided  
8           that dividends eligible for the deduction provided in  
9           subparagraph (M) of paragraph (2) of this subsection  
10          shall not be eligible for the deduction provided under  
11          this subparagraph (O);

12          (P) An amount equal to the amount of the deduction  
13          used to compute the federal income tax credit for  
14          restoration of substantial amounts held under claim of  
15          right for the taxable year pursuant to Section 1341 of  
16          the Internal Revenue Code;

17          (Q) For taxable year 1999 and thereafter, an amount  
18          equal to the amount of any (i) distributions, to the  
19          extent includible in gross income for federal income  
20          tax purposes, made to the taxpayer because of his or  
21          her status as a victim of persecution for racial or  
22          religious reasons by Nazi Germany or any other Axis  
23          regime or as an heir of the victim and (ii) items of  
24          income, to the extent includible in gross income for  
25          federal income tax purposes, attributable to, derived  
26          from or in any way related to assets stolen from,

1 hidden from, or otherwise lost to a victim of  
2 persecution for racial or religious reasons by Nazi  
3 Germany or any other Axis regime immediately prior to,  
4 during, and immediately after World War II, including,  
5 but not limited to, interest on the proceeds receivable  
6 as insurance under policies issued to a victim of  
7 persecution for racial or religious reasons by Nazi  
8 Germany or any other Axis regime by European insurance  
9 companies immediately prior to and during World War II;  
10 provided, however, this subtraction from federal  
11 adjusted gross income does not apply to assets acquired  
12 with such assets or with the proceeds from the sale of  
13 such assets; provided, further, this paragraph shall  
14 only apply to a taxpayer who was the first recipient of  
15 such assets after their recovery and who is a victim of  
16 persecution for racial or religious reasons by Nazi  
17 Germany or any other Axis regime or as an heir of the  
18 victim. The amount of and the eligibility for any  
19 public assistance, benefit, or similar entitlement is  
20 not affected by the inclusion of items (i) and (ii) of  
21 this paragraph in gross income for federal income tax  
22 purposes. This paragraph is exempt from the provisions  
23 of Section 250;

24 (R) For taxable years 2001 and thereafter, for the  
25 taxable year in which the bonus depreciation deduction  
26 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal  
2 Revenue Code and for each applicable taxable year  
3 thereafter, an amount equal to "x", where:

4 (1) "y" equals the amount of the depreciation  
5 deduction taken for the taxable year on the  
6 taxpayer's federal income tax return on property  
7 for which the bonus depreciation deduction was  
8 taken in any year under subsection (k) of Section  
9 168 of the Internal Revenue Code, but not including  
10 the bonus depreciation deduction;

11 (2) for taxable years ending on or before  
12 December 31, 2005, "x" equals "y" multiplied by 30  
13 and then divided by 70 (or "y" multiplied by  
14 0.429); and

15 (3) for taxable years ending after December  
16 31, 2005:

17 (i) for property on which a bonus  
18 depreciation deduction of 30% of the adjusted  
19 basis was taken, "x" equals "y" multiplied by  
20 30 and then divided by 70 (or "y" multiplied by  
21 0.429); and

22 (ii) for property on which a bonus  
23 depreciation deduction of 50% of the adjusted  
24 basis was taken, "x" equals "y" multiplied by  
25 1.0.

26 The aggregate amount deducted under this

1           subparagraph in all taxable years for any one piece of  
2           property may not exceed the amount of the bonus  
3           depreciation deduction taken on that property on the  
4           taxpayer's federal income tax return under subsection  
5           (k) of Section 168 of the Internal Revenue Code. This  
6           subparagraph (R) is exempt from the provisions of  
7           Section 250;

8           (S) If the taxpayer sells, transfers, abandons, or  
9           otherwise disposes of property for which the taxpayer  
10          was required in any taxable year to make an addition  
11          modification under subparagraph (G-10), then an amount  
12          equal to that addition modification.

13          If the taxpayer continues to own property through  
14          the last day of the last tax year for which the  
15          taxpayer may claim a depreciation deduction for  
16          federal income tax purposes and for which the taxpayer  
17          was required in any taxable year to make an addition  
18          modification under subparagraph (G-10), then an amount  
19          equal to that addition modification.

20          The taxpayer is allowed to take the deduction under  
21          this subparagraph only once with respect to any one  
22          piece of property.

23          This subparagraph (S) is exempt from the  
24          provisions of Section 250;

25          (T) The amount of (i) any interest income (net of  
26          the deductions allocable thereto) taken into account



1           for the taxable year with respect to a transaction with  
2           a taxpayer that is required to make an addition  
3           modification with respect to such transaction under  
4           Section           203(a) (2) (D-17),           203(b) (2) (E-12),  
5           203(c) (2) (G-12), or 203(d) (2) (D-7), but not to exceed  
6           the amount of such addition modification and (ii) any  
7           income from intangible property (net of the deductions  
8           allocable thereto) taken into account for the taxable  
9           year with respect to a transaction with a taxpayer that  
10          is required to make an addition modification with  
11          respect to such transaction under Section  
12          203(a) (2) (D-18), 203(b) (2) (E-13), 203(c) (2) (G-13), or  
13          203(d) (2) (D-8), but not to exceed the amount of such  
14          addition modification. This subparagraph (T) is exempt  
15          from the provisions of Section 250;

16               (U) An amount equal to the interest income taken  
17               into account for the taxable year (net of the  
18               deductions allocable thereto) with respect to  
19               transactions with (i) a foreign person who would be a  
20               member of the taxpayer's unitary business group but for  
21               the fact the foreign person's business activity  
22               outside the United States is 80% or more of that  
23               person's total business activity and (ii) for taxable  
24               years ending on or after December 31, 2008, to a person  
25               who would be a member of the same unitary business  
26               group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the  
2 unitary business group because he or she is ordinarily  
3 required to apportion business income under different  
4 subsections of Section 304, but not to exceed the  
5 addition modification required to be made for the same  
6 taxable year under Section 203(c)(2)(G-12) for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, to the same person. This subparagraph (U)  
9 is exempt from the provisions of Section 250;

10 (V) An amount equal to the income from intangible  
11 property taken into account for the taxable year (net  
12 of the deductions allocable thereto) with respect to  
13 transactions with (i) a foreign person who would be a  
14 member of the taxpayer's unitary business group but for  
15 the fact that the foreign person's business activity  
16 outside the United States is 80% or more of that  
17 person's total business activity and (ii) for taxable  
18 years ending on or after December 31, 2008, to a person  
19 who would be a member of the same unitary business  
20 group but for the fact that the person is prohibited  
21 under Section 1501(a)(27) from being included in the  
22 unitary business group because he or she is ordinarily  
23 required to apportion business income under different  
24 subsections of Section 304, but not to exceed the  
25 addition modification required to be made for the same  
26 taxable year under Section 203(c)(2)(G-13) for

1 intangible expenses and costs paid, accrued, or  
2 incurred, directly or indirectly, to the same foreign  
3 person. This subparagraph (V) is exempt from the  
4 provisions of Section 250;

5 (W) in the case of an estate, an amount equal to  
6 all amounts included in such total pursuant to the  
7 provisions of Section 111 of the Internal Revenue Code  
8 as a recovery of items previously deducted by the  
9 decedent from adjusted gross income in the computation  
10 of taxable income. This subparagraph (W) is exempt from  
11 Section 250;

12 (X) an amount equal to the refund included in such  
13 total of any tax deducted for federal income tax  
14 purposes, to the extent that deduction was added back  
15 under subparagraph (F). This subparagraph (X) is  
16 exempt from the provisions of Section 250; and

17 (Y) For taxable years ending on or after December  
18 31, 2011, in the case of a taxpayer who was required to  
19 add back any insurance premiums under Section  
20 203(c)(2)(G-14), such taxpayer may elect to subtract  
21 that part of a reimbursement received from the  
22 insurance company equal to the amount of the expense or  
23 loss (including expenses incurred by the insurance  
24 company) that would have been taken into account as a  
25 deduction for federal income tax purposes if the  
26 expense or loss had been uninsured. If a taxpayer makes

1           the election provided for by this subparagraph (Y), the  
2           insurer to which the premiums were paid must add back  
3           to income the amount subtracted by the taxpayer  
4           pursuant to this subparagraph (Y). This subparagraph  
5           (Y) is exempt from the provisions of Section 250.

6           (3) Limitation. The amount of any modification  
7           otherwise required under this subsection shall, under  
8           regulations prescribed by the Department, be adjusted by  
9           any amounts included therein which were properly paid,  
10          credited, or required to be distributed, or permanently set  
11          aside for charitable purposes pursuant to Internal Revenue  
12          Code Section 642(c) during the taxable year.

13          (d) Partnerships.

14           (1) In general. In the case of a partnership, base  
15           income means an amount equal to the taxpayer's taxable  
16           income for the taxable year as modified by paragraph (2).

17           (2) Modifications. The taxable income referred to in  
18           paragraph (1) shall be modified by adding thereto the sum  
19           of the following amounts:

20           (A) An amount equal to all amounts paid or accrued  
21           to the taxpayer as interest or dividends during the  
22           taxable year to the extent excluded from gross income  
23           in the computation of taxable income;

24           (B) An amount equal to the amount of tax imposed by  
25           this Act to the extent deducted from gross income for

1 the taxable year;

2 (C) The amount of deductions allowed to the  
3 partnership pursuant to Section 707 (c) of the Internal  
4 Revenue Code in calculating its taxable income;

5 (D) An amount equal to the amount of the capital  
6 gain deduction allowable under the Internal Revenue  
7 Code, to the extent deducted from gross income in the  
8 computation of taxable income;

9 (D-5) For taxable years 2001 and thereafter, an  
10 amount equal to the bonus depreciation deduction taken  
11 on the taxpayer's federal income tax return for the  
12 taxable year under subsection (k) of Section 168 of the  
13 Internal Revenue Code;

14 (D-6) If the taxpayer sells, transfers, abandons,  
15 or otherwise disposes of property for which the  
16 taxpayer was required in any taxable year to make an  
17 addition modification under subparagraph (D-5), then  
18 an amount equal to the aggregate amount of the  
19 deductions taken in all taxable years under  
20 subparagraph (O) with respect to that property.

21 If the taxpayer continues to own property through  
22 the last day of the last tax year for which the  
23 taxpayer may claim a depreciation deduction for  
24 federal income tax purposes and for which the taxpayer  
25 was allowed in any taxable year to make a subtraction  
26 modification under subparagraph (O), then an amount

1 equal to that subtraction modification.

2 The taxpayer is required to make the addition  
3 modification under this subparagraph only once with  
4 respect to any one piece of property;

5 (D-7) An amount equal to the amount otherwise  
6 allowed as a deduction in computing base income for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, (i) for taxable years ending on or after  
9 December 31, 2004, to a foreign person who would be a  
10 member of the same unitary business group but for the  
11 fact the foreign person's business activity outside  
12 the United States is 80% or more of the foreign  
13 person's total business activity and (ii) for taxable  
14 years ending on or after December 31, 2008, to a person  
15 who would be a member of the same unitary business  
16 group but for the fact that the person is prohibited  
17 under Section 1501(a)(27) from being included in the  
18 unitary business group because he or she is ordinarily  
19 required to apportion business income under different  
20 subsections of Section 304. The addition modification  
21 required by this subparagraph shall be reduced to the  
22 extent that dividends were included in base income of  
23 the unitary group for the same taxable year and  
24 received by the taxpayer or by a member of the  
25 taxpayer's unitary business group (including amounts  
26 included in gross income pursuant to Sections 951

1 through 964 of the Internal Revenue Code and amounts  
2 included in gross income under Section 78 of the  
3 Internal Revenue Code) with respect to the stock of the  
4 same person to whom the interest was paid, accrued, or  
5 incurred.

6 This paragraph shall not apply to the following:

7 (i) an item of interest paid, accrued, or  
8 incurred, directly or indirectly, to a person who  
9 is subject in a foreign country or state, other  
10 than a state which requires mandatory unitary  
11 reporting, to a tax on or measured by net income  
12 with respect to such interest; or

13 (ii) an item of interest paid, accrued, or  
14 incurred, directly or indirectly, to a person if  
15 the taxpayer can establish, based on a  
16 preponderance of the evidence, both of the  
17 following:

18 (a) the person, during the same taxable  
19 year, paid, accrued, or incurred, the interest  
20 to a person that is not a related member, and

21 (b) the transaction giving rise to the  
22 interest expense between the taxpayer and the  
23 person did not have as a principal purpose the  
24 avoidance of Illinois income tax, and is paid  
25 pursuant to a contract or agreement that  
26 reflects an arm's-length interest rate and

1 terms; or

2 (iii) the taxpayer can establish, based on  
3 clear and convincing evidence, that the interest  
4 paid, accrued, or incurred relates to a contract or  
5 agreement entered into at arm's-length rates and  
6 terms and the principal purpose for the payment is  
7 not federal or Illinois tax avoidance; or

8 (iv) an item of interest paid, accrued, or  
9 incurred, directly or indirectly, to a person if  
10 the taxpayer establishes by clear and convincing  
11 evidence that the adjustments are unreasonable; or  
12 if the taxpayer and the Director agree in writing  
13 to the application or use of an alternative method  
14 of apportionment under Section 304(f).

15 Nothing in this subsection shall preclude the  
16 Director from making any other adjustment  
17 otherwise allowed under Section 404 of this Act for  
18 any tax year beginning after the effective date of  
19 this amendment provided such adjustment is made  
20 pursuant to regulation adopted by the Department  
21 and such regulations provide methods and standards  
22 by which the Department will utilize its authority  
23 under Section 404 of this Act; and

24 (D-8) An amount equal to the amount of intangible  
25 expenses and costs otherwise allowed as a deduction in  
26 computing base income, and that were paid, accrued, or



1 incurred, directly or indirectly, (i) for taxable  
2 years ending on or after December 31, 2004, to a  
3 foreign person who would be a member of the same  
4 unitary business group but for the fact that the  
5 foreign person's business activity outside the United  
6 States is 80% or more of that person's total business  
7 activity and (ii) for taxable years ending on or after  
8 December 31, 2008, to a person who would be a member of  
9 the same unitary business group but for the fact that  
10 the person is prohibited under Section 1501(a)(27)  
11 from being included in the unitary business group  
12 because he or she is ordinarily required to apportion  
13 business income under different subsections of Section  
14 304. The addition modification required by this  
15 subparagraph shall be reduced to the extent that  
16 dividends were included in base income of the unitary  
17 group for the same taxable year and received by the  
18 taxpayer or by a member of the taxpayer's unitary  
19 business group (including amounts included in gross  
20 income pursuant to Sections 951 through 964 of the  
21 Internal Revenue Code and amounts included in gross  
22 income under Section 78 of the Internal Revenue Code)  
23 with respect to the stock of the same person to whom  
24 the intangible expenses and costs were directly or  
25 indirectly paid, incurred or accrued. The preceding  
26 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition  
2 modification required under Section 203(d)(2)(D-7) of  
3 this Act. As used in this subparagraph, the term  
4 "intangible expenses and costs" includes (1) expenses,  
5 losses, and costs for, or related to, the direct or  
6 indirect acquisition, use, maintenance or management,  
7 ownership, sale, exchange, or any other disposition of  
8 intangible property; (2) losses incurred, directly or  
9 indirectly, from factoring transactions or discounting  
10 transactions; (3) royalty, patent, technical, and  
11 copyright fees; (4) licensing fees; and (5) other  
12 similar expenses and costs. For purposes of this  
13 subparagraph, "intangible property" includes patents,  
14 patent applications, trade names, trademarks, service  
15 marks, copyrights, mask works, trade secrets, and  
16 similar types of intangible assets;

17 This paragraph shall not apply to the following:

18 (i) any item of intangible expenses or costs  
19 paid, accrued, or incurred, directly or  
20 indirectly, from a transaction with a person who is  
21 subject in a foreign country or state, other than a  
22 state which requires mandatory unitary reporting,  
23 to a tax on or measured by net income with respect  
24 to such item; or

25 (ii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or

1 indirectly, if the taxpayer can establish, based  
2 on a preponderance of the evidence, both of the  
3 following:

4 (a) the person during the same taxable  
5 year paid, accrued, or incurred, the  
6 intangible expense or cost to a person that is  
7 not a related member, and

8 (b) the transaction giving rise to the  
9 intangible expense or cost between the  
10 taxpayer and the person did not have as a  
11 principal purpose the avoidance of Illinois  
12 income tax, and is paid pursuant to a contract  
13 or agreement that reflects arm's-length terms;  
14 or

15 (iii) any item of intangible expense or cost  
16 paid, accrued, or incurred, directly or  
17 indirectly, from a transaction with a person if the  
18 taxpayer establishes by clear and convincing  
19 evidence, that the adjustments are unreasonable;  
20 or if the taxpayer and the Director agree in  
21 writing to the application or use of an alternative  
22 method of apportionment under Section 304(f);

23 Nothing in this subsection shall preclude the  
24 Director from making any other adjustment  
25 otherwise allowed under Section 404 of this Act for  
26 any tax year beginning after the effective date of

1           this amendment provided such adjustment is made  
2           pursuant to regulation adopted by the Department  
3           and such regulations provide methods and standards  
4           by which the Department will utilize its authority  
5           under Section 404 of this Act;

6           (D-9) For taxable years ending on or after December  
7           31, 2008, an amount equal to the amount of insurance  
8           premium expenses and costs otherwise allowed as a  
9           deduction in computing base income, and that were paid,  
10          accrued, or incurred, directly or indirectly, to a  
11          person who would be a member of the same unitary  
12          business group but for the fact that the person is  
13          prohibited under Section 1501(a)(27) from being  
14          included in the unitary business group because he or  
15          she is ordinarily required to apportion business  
16          income under different subsections of Section 304. The  
17          addition modification required by this subparagraph  
18          shall be reduced to the extent that dividends were  
19          included in base income of the unitary group for the  
20          same taxable year and received by the taxpayer or by a  
21          member of the taxpayer's unitary business group  
22          (including amounts included in gross income under  
23          Sections 951 through 964 of the Internal Revenue Code  
24          and amounts included in gross income under Section 78  
25          of the Internal Revenue Code) with respect to the stock  
26          of the same person to whom the premiums and costs were

1 directly or indirectly paid, incurred, or accrued. The  
2 preceding sentence does not apply to the extent that  
3 the same dividends caused a reduction to the addition  
4 modification required under Section 203(d)(2)(D-7) or  
5 Section 203(d)(2)(D-8) of this Act;

6 (D-10) An amount equal to the credit allowable to  
7 the taxpayer under Section 218(a) of this Act,  
8 determined without regard to Section 218(c) of this  
9 Act;

10 and by deducting from the total so obtained the following  
11 amounts:

12 (E) The valuation limitation amount;

13 (F) An amount equal to the amount of any tax  
14 imposed by this Act which was refunded to the taxpayer  
15 and included in such total for the taxable year;

16 (G) An amount equal to all amounts included in  
17 taxable income as modified by subparagraphs (A), (B),  
18 (C) and (D) which are exempt from taxation by this  
19 State either by reason of its statutes or Constitution  
20 or by reason of the Constitution, treaties or statutes  
21 of the United States; provided that, in the case of any  
22 statute of this State that exempts income derived from  
23 bonds or other obligations from the tax imposed under  
24 this Act, the amount exempted shall be the interest net  
25 of bond premium amortization;

26 (H) Any income of the partnership which

1           constitutes personal service income as defined in  
2           Section 1348 (b) (1) of the Internal Revenue Code (as  
3           in effect December 31, 1981) or a reasonable allowance  
4           for compensation paid or accrued for services rendered  
5           by partners to the partnership, whichever is greater;  
6           this subparagraph (H) is exempt from the provisions of  
7           Section 250;

8           (I) An amount equal to all amounts of income  
9           distributable to an entity subject to the Personal  
10          Property Tax Replacement Income Tax imposed by  
11          subsections (c) and (d) of Section 201 of this Act  
12          including amounts distributable to organizations  
13          exempt from federal income tax by reason of Section  
14          501(a) of the Internal Revenue Code; this subparagraph  
15          (I) is exempt from the provisions of Section 250;

16          (J) With the exception of any amounts subtracted  
17          under subparagraph (G), an amount equal to the sum of  
18          all amounts disallowed as deductions by (i) Sections  
19          171(a) (2), and 265(2) of the Internal Revenue Code,  
20          and all amounts of expenses allocable to interest and  
21          disallowed as deductions by Section 265(1) of the  
22          Internal Revenue Code; and (ii) for taxable years  
23          ending on or after August 13, 1999, Sections 171(a) (2),  
24          265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
25          Code, plus, (iii) for taxable years ending on or after  
26          December 31, 2011, Section 45G(e) (3) of the Internal

1 Revenue Code and, for taxable years ending on or after  
2 December 31, 2008, any amount included in gross income  
3 under Section 87 of the Internal Revenue Code; the  
4 provisions of this subparagraph are exempt from the  
5 provisions of Section 250;

6 (K) An amount equal to those dividends included in  
7 such total which were paid by a corporation which  
8 conducts business operations in a River Edge  
9 Redevelopment Zone or zones created under the River  
10 Edge Redevelopment Zone Act and conducts substantially  
11 all of its operations from a River Edge Redevelopment  
12 Zone or zones. This subparagraph (K) is exempt from the  
13 provisions of Section 250;

14 (L) An amount equal to any contribution made to a  
15 job training project established pursuant to the Real  
16 Property Tax Increment Allocation Redevelopment Act;

17 (M) An amount equal to those dividends included in  
18 such total that were paid by a corporation that  
19 conducts business operations in a federally designated  
20 Foreign Trade Zone or Sub-Zone and that is designated a  
21 High Impact Business located in Illinois; provided  
22 that dividends eligible for the deduction provided in  
23 subparagraph (K) of paragraph (2) of this subsection  
24 shall not be eligible for the deduction provided under  
25 this subparagraph (M);

26 (N) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for  
2 restoration of substantial amounts held under claim of  
3 right for the taxable year pursuant to Section 1341 of  
4 the Internal Revenue Code;

5 (0) For taxable years 2001 and thereafter, for the  
6 taxable year in which the bonus depreciation deduction  
7 is taken on the taxpayer's federal income tax return  
8 under subsection (k) of Section 168 of the Internal  
9 Revenue Code and for each applicable taxable year  
10 thereafter, an amount equal to "x", where:

11 (1) "y" equals the amount of the depreciation  
12 deduction taken for the taxable year on the  
13 taxpayer's federal income tax return on property  
14 for which the bonus depreciation deduction was  
15 taken in any year under subsection (k) of Section  
16 168 of the Internal Revenue Code, but not including  
17 the bonus depreciation deduction;

18 (2) for taxable years ending on or before  
19 December 31, 2005, "x" equals "y" multiplied by 30  
20 and then divided by 70 (or "y" multiplied by  
21 0.429); and

22 (3) for taxable years ending after December  
23 31, 2005:

24 (i) for property on which a bonus  
25 depreciation deduction of 30% of the adjusted  
26 basis was taken, "x" equals "y" multiplied by



1                   30 and then divided by 70 (or "y" multiplied by  
2                   0.429); and

3                   (ii) for property on which a bonus  
4                   depreciation deduction of 50% of the adjusted  
5                   basis was taken, "x" equals "y" multiplied by  
6                   1.0.

7                   The aggregate amount deducted under this  
8                   subparagraph in all taxable years for any one piece of  
9                   property may not exceed the amount of the bonus  
10                  depreciation deduction taken on that property on the  
11                  taxpayer's federal income tax return under subsection  
12                  (k) of Section 168 of the Internal Revenue Code. This  
13                  subparagraph (O) is exempt from the provisions of  
14                  Section 250;

15                  (P) If the taxpayer sells, transfers, abandons, or  
16                  otherwise disposes of property for which the taxpayer  
17                  was required in any taxable year to make an addition  
18                  modification under subparagraph (D-5), then an amount  
19                  equal to that addition modification.

20                  If the taxpayer continues to own property through  
21                  the last day of the last tax year for which the  
22                  taxpayer may claim a depreciation deduction for  
23                  federal income tax purposes and for which the taxpayer  
24                  was required in any taxable year to make an addition  
25                  modification under subparagraph (D-5), then an amount  
26                  equal to that addition modification.

1           The taxpayer is allowed to take the deduction under  
2           this subparagraph only once with respect to any one  
3           piece of property.

4           This subparagraph (P) is exempt from the  
5           provisions of Section 250;

6           (Q) The amount of (i) any interest income (net of  
7           the deductions allocable thereto) taken into account  
8           for the taxable year with respect to a transaction with  
9           a taxpayer that is required to make an addition  
10          modification with respect to such transaction under  
11          Section        203(a)(2)(D-17),        203(b)(2)(E-12),  
12          203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
13          the amount of such addition modification and (ii) any  
14          income from intangible property (net of the deductions  
15          allocable thereto) taken into account for the taxable  
16          year with respect to a transaction with a taxpayer that  
17          is required to make an addition modification with  
18          respect to such transaction under Section  
19          203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
20          203(d)(2)(D-8), but not to exceed the amount of such  
21          addition modification. This subparagraph (Q) is exempt  
22          from Section 250;

23          (R) An amount equal to the interest income taken  
24          into account for the taxable year (net of the  
25          deductions allocable thereto) with respect to  
26          transactions with (i) a foreign person who would be a

1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity and (ii) for taxable  
5 years ending on or after December 31, 2008, to a person  
6 who would be a member of the same unitary business  
7 group but for the fact that the person is prohibited  
8 under Section 1501(a)(27) from being included in the  
9 unitary business group because he or she is ordinarily  
10 required to apportion business income under different  
11 subsections of Section 304, but not to exceed the  
12 addition modification required to be made for the same  
13 taxable year under Section 203(d)(2)(D-7) for interest  
14 paid, accrued, or incurred, directly or indirectly, to  
15 the same person. This subparagraph (R) is exempt from  
16 Section 250;

17 (S) An amount equal to the income from intangible  
18 property taken into account for the taxable year (net  
19 of the deductions allocable thereto) with respect to  
20 transactions with (i) a foreign person who would be a  
21 member of the taxpayer's unitary business group but for  
22 the fact that the foreign person's business activity  
23 outside the United States is 80% or more of that  
24 person's total business activity and (ii) for taxable  
25 years ending on or after December 31, 2008, to a person  
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited  
2 under Section 1501(a)(27) from being included in the  
3 unitary business group because he or she is ordinarily  
4 required to apportion business income under different  
5 subsections of Section 304, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(d)(2)(D-8) for  
8 intangible expenses and costs paid, accrued, or  
9 incurred, directly or indirectly, to the same person.  
10 This subparagraph (S) is exempt from Section 250; and

11 (T) For taxable years ending on or after December  
12 31, 2011, in the case of a taxpayer who was required to  
13 add back any insurance premiums under Section  
14 203(d)(2)(D-9), such taxpayer may elect to subtract  
15 that part of a reimbursement received from the  
16 insurance company equal to the amount of the expense or  
17 loss (including expenses incurred by the insurance  
18 company) that would have been taken into account as a  
19 deduction for federal income tax purposes if the  
20 expense or loss had been uninsured. If a taxpayer makes  
21 the election provided for by this subparagraph (T), the  
22 insurer to which the premiums were paid must add back  
23 to income the amount subtracted by the taxpayer  
24 pursuant to this subparagraph (T). This subparagraph  
25 (T) is exempt from the provisions of Section 250.

1 (e) Gross income; adjusted gross income; taxable income.

2 (1) In general. Subject to the provisions of paragraph  
3 (2) and subsection (b) (3), for purposes of this Section  
4 and Section 803(e), a taxpayer's gross income, adjusted  
5 gross income, or taxable income for the taxable year shall  
6 mean the amount of gross income, adjusted gross income or  
7 taxable income properly reportable for federal income tax  
8 purposes for the taxable year under the provisions of the  
9 Internal Revenue Code. Taxable income may be less than  
10 zero. However, for taxable years ending on or after  
11 December 31, 1986, net operating loss carryforwards from  
12 taxable years ending prior to December 31, 1986, may not  
13 exceed the sum of federal taxable income for the taxable  
14 year before net operating loss deduction, plus the excess  
15 of addition modifications over subtraction modifications  
16 for the taxable year. For taxable years ending prior to  
17 December 31, 1986, taxable income may never be an amount in  
18 excess of the net operating loss for the taxable year as  
19 defined in subsections (c) and (d) of Section 172 of the  
20 Internal Revenue Code, provided that when taxable income of  
21 a corporation (other than a Subchapter S corporation),  
22 trust, or estate is less than zero and addition  
23 modifications, other than those provided by subparagraph  
24 (E) of paragraph (2) of subsection (b) for corporations or  
25 subparagraph (E) of paragraph (2) of subsection (c) for  
26 trusts and estates, exceed subtraction modifications, an

1 addition modification must be made under those  
2 subparagraphs for any other taxable year to which the  
3 taxable income less than zero (net operating loss) is  
4 applied under Section 172 of the Internal Revenue Code or  
5 under subparagraph (E) of paragraph (2) of this subsection  
6 (e) applied in conjunction with Section 172 of the Internal  
7 Revenue Code.

8 (2) Special rule. For purposes of paragraph (1) of this  
9 subsection, the taxable income properly reportable for  
10 federal income tax purposes shall mean:

11 (A) Certain life insurance companies. In the case  
12 of a life insurance company subject to the tax imposed  
13 by Section 801 of the Internal Revenue Code, life  
14 insurance company taxable income, plus the amount of  
15 distribution from pre-1984 policyholder surplus  
16 accounts as calculated under Section 815a of the  
17 Internal Revenue Code;

18 (B) Certain other insurance companies. In the case  
19 of mutual insurance companies subject to the tax  
20 imposed by Section 831 of the Internal Revenue Code,  
21 insurance company taxable income;

22 (C) Regulated investment companies. In the case of  
23 a regulated investment company subject to the tax  
24 imposed by Section 852 of the Internal Revenue Code,  
25 investment company taxable income;

26 (D) Real estate investment trusts. In the case of a

1 real estate investment trust subject to the tax imposed  
2 by Section 857 of the Internal Revenue Code, real  
3 estate investment trust taxable income;

4 (E) Consolidated corporations. In the case of a  
5 corporation which is a member of an affiliated group of  
6 corporations filing a consolidated income tax return  
7 for the taxable year for federal income tax purposes,  
8 taxable income determined as if such corporation had  
9 filed a separate return for federal income tax purposes  
10 for the taxable year and each preceding taxable year  
11 for which it was a member of an affiliated group. For  
12 purposes of this subparagraph, the taxpayer's separate  
13 taxable income shall be determined as if the election  
14 provided by Section 243(b) (2) of the Internal Revenue  
15 Code had been in effect for all such years;

16 (F) Cooperatives. In the case of a cooperative  
17 corporation or association, the taxable income of such  
18 organization determined in accordance with the  
19 provisions of Section 1381 through 1388 of the Internal  
20 Revenue Code, but without regard to the prohibition  
21 against offsetting losses from patronage activities  
22 against income from nonpatronage activities; except  
23 that a cooperative corporation or association may make  
24 an election to follow its federal income tax treatment  
25 of patronage losses and nonpatronage losses. In the  
26 event such election is made, such losses shall be

1           computed and carried over in a manner consistent with  
2           subsection (a) of Section 207 of this Act and  
3           apportioned by the apportionment factor reported by  
4           the cooperative on its Illinois income tax return filed  
5           for the taxable year in which the losses are incurred.  
6           The election shall be effective for all taxable years  
7           with original returns due on or after the date of the  
8           election. In addition, the cooperative may file an  
9           amended return or returns, as allowed under this Act,  
10          to provide that the election shall be effective for  
11          losses incurred or carried forward for taxable years  
12          occurring prior to the date of the election. Once made,  
13          the election may only be revoked upon approval of the  
14          Director. The Department shall adopt rules setting  
15          forth requirements for documenting the elections and  
16          any resulting Illinois net loss and the standards to be  
17          used by the Director in evaluating requests to revoke  
18          elections. Public Act 96-932 is declaratory of  
19          existing law;

20                 (G) Subchapter S corporations. In the case of: (i)  
21                 a Subchapter S corporation for which there is in effect  
22                 an election for the taxable year under Section 1362 of  
23                 the Internal Revenue Code, the taxable income of such  
24                 corporation determined in accordance with Section  
25                 1363(b) of the Internal Revenue Code, except that  
26                 taxable income shall take into account those items



1           which are required by Section 1363(b)(1) of the  
2           Internal Revenue Code to be separately stated; and (ii)  
3           a Subchapter S corporation for which there is in effect  
4           a federal election to opt out of the provisions of the  
5           Subchapter S Revision Act of 1982 and have applied  
6           instead the prior federal Subchapter S rules as in  
7           effect on July 1, 1982, the taxable income of such  
8           corporation determined in accordance with the federal  
9           Subchapter S rules as in effect on July 1, 1982; and

10           (H) Partnerships. In the case of a partnership,  
11           taxable income determined in accordance with Section  
12           703 of the Internal Revenue Code, except that taxable  
13           income shall take into account those items which are  
14           required by Section 703(a)(1) to be separately stated  
15           but which would be taken into account by an individual  
16           in calculating his taxable income.

17           (3) Recapture of business expenses on disposition of  
18           asset or business. Notwithstanding any other law to the  
19           contrary, if in prior years income from an asset or  
20           business has been classified as business income and in a  
21           later year is demonstrated to be non-business income, then  
22           all expenses, without limitation, deducted in such later  
23           year and in the 2 immediately preceding taxable years  
24           related to that asset or business that generated the  
25           non-business income shall be added back and recaptured as  
26           business income in the year of the disposition of the asset

1 or business. Such amount shall be apportioned to Illinois  
2 using the greater of the apportionment fraction computed  
3 for the business under Section 304 of this Act for the  
4 taxable year or the average of the apportionment fractions  
5 computed for the business under Section 304 of this Act for  
6 the taxable year and for the 2 immediately preceding  
7 taxable years.

8 (f) Valuation limitation amount.

9 (1) In general. The valuation limitation amount  
10 referred to in subsections (a) (2) (G), (c) (2) (I) and  
11 (d) (2) (E) is an amount equal to:

12 (A) The sum of the pre-August 1, 1969 appreciation  
13 amounts (to the extent consisting of gain reportable  
14 under the provisions of Section 1245 or 1250 of the  
15 Internal Revenue Code) for all property in respect of  
16 which such gain was reported for the taxable year; plus

17 (B) The lesser of (i) the sum of the pre-August 1,  
18 1969 appreciation amounts (to the extent consisting of  
19 capital gain) for all property in respect of which such  
20 gain was reported for federal income tax purposes for  
21 the taxable year, or (ii) the net capital gain for the  
22 taxable year, reduced in either case by any amount of  
23 such gain included in the amount determined under  
24 subsection (a) (2) (F) or (c) (2) (H).

25 (2) Pre-August 1, 1969 appreciation amount.

1           (A) If the fair market value of property referred  
2 to in paragraph (1) was readily ascertainable on August  
3 1, 1969, the pre-August 1, 1969 appreciation amount for  
4 such property is the lesser of (i) the excess of such  
5 fair market value over the taxpayer's basis (for  
6 determining gain) for such property on that date  
7 (determined under the Internal Revenue Code as in  
8 effect on that date), or (ii) the total gain realized  
9 and reportable for federal income tax purposes in  
10 respect of the sale, exchange or other disposition of  
11 such property.

12           (B) If the fair market value of property referred  
13 to in paragraph (1) was not readily ascertainable on  
14 August 1, 1969, the pre-August 1, 1969 appreciation  
15 amount for such property is that amount which bears the  
16 same ratio to the total gain reported in respect of the  
17 property for federal income tax purposes for the  
18 taxable year, as the number of full calendar months in  
19 that part of the taxpayer's holding period for the  
20 property ending July 31, 1969 bears to the number of  
21 full calendar months in the taxpayer's entire holding  
22 period for the property.

23           (C) The Department shall prescribe such  
24 regulations as may be necessary to carry out the  
25 purposes of this paragraph.

1           (g) Double deductions. Unless specifically provided  
2 otherwise, nothing in this Section shall permit the same item  
3 to be deducted more than once.

4           (h) Legislative intention. Except as expressly provided by  
5 this Section there shall be no modifications or limitations on  
6 the amounts of income, gain, loss or deduction taken into  
7 account in determining gross income, adjusted gross income or  
8 taxable income for federal income tax purposes for the taxable  
9 year, or in the amount of such items entering into the  
10 computation of base income and net income under this Act for  
11 such taxable year, whether in respect of property values as of  
12 August 1, 1969 or otherwise.

13           (Source: P.A. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,  
14 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;  
15 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.  
16 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,  
17 eff. 8-23-11; 97-905, eff. 8-7-12.)

18           Section 999. Effective date. This Act takes effect upon  
19 becoming law.